

SAN FRANCISCO PUBLIC LIBRARY



3 1223 07805 3692

5/S



San Francisco Public Library

Government Information Center
San Francisco Public Library
100 Larkin Street, 5th Floor
San Francisco, CA 94102

REFERENCE BOOK

Not to be taken from the Library



Digitized by the Internet Archive
in 2015

https://archive.org/details/agenda2006sanf_14


[sfgov](#) | [residents](#) | [business](#) | [government](#) | [visitors](#) | [online services](#) | [search](#)
[Home](#) >> [Sunshine Meeting Index](#) >> [Sunshine Ordinance Task Force](#)

Board of Supervisors

Sunshine Ordinance Task Force

January 3, 2006

SUNSHINE ORDINANCE TASK FORCE

DOCUMENTS DEPT

AGENDA

DEC 29 2005

SPECIAL MEETING

SAN FRANCISCO
PUBLIC LIBRARY

Tuesday, January 3, 2006

4:00 p.m., City Hall, Room 408

Task Force Members

Seat 1	Erica Craven (Vice Chair)	Seat 8	Bruce Wolfe
Seat 2	Richard Knee	Seat 9	Vacant
Seat 3	Sue Cauthen	Seat 10	Nick Mueller
Seat 4	Vacant	Seat 11	Marjorie Ann Williams
Seat 5	Heather Sterner		
Seat 6	Doug Comstock (Chair)	Ex-officio	Gloria Young
Seat 7	David Pilpel	Ex-officio	Vacant

Note: Each item on the Agenda may include minutes, department or agency letters and reports; Task Force reports; and public correspondence. These items will be available for review at City Hall, Sunshine Ordinance Task Force, Room 244.

Call to Order

Roll Call

Agenda Changes

1. Approval of minutes of November 22, 2005. (action item) (5 minutes) (attachment)

2. Report from Complaint Committee meeting of December 13, 2005.

(Sue Cauthen) (10 min) (attachment)

05039 Recommendation to accept jurisdiction of complaint filed by Louis Dillon against the Golden

Gate Park Stables Working Group for alleged violation of open meeting laws in that the Working Group failed to provide notice of its meetings and failed to allow public comment during its meetings in violation of the Sunshine Ordinance.

3. 05039 Public Hearing, complaint filed by Louis Dillon against the Golden Gate Park Stables Working Group for alleged violation of open meeting laws in that the Working Group failed to provide notice of its meetings and failed to allow public comment during its meetings in violation of the Sunshine Ordinance.

(discussion and possible action) (30 minutes) (attachment)
4. Recommend to the Full Task Force from the Compliance and Amendments Committee that the San Francisco Police Departments non-compliance with the November 22, 2005, Order of Determination be referred to the Police Commission for policy review and determination.

(discussion and possible action) (10 minutes) (attachment)
5. Continued report from Compliance & Amendments Committee: meeting of November 17, 2005. (Richard Knee) (discussion and possible action) (10 min) (attachment)
6. Report from Compliance & Amendments Committee: meeting of December 14, 2005. (Richard Knee) (10 min) (attachment)
7. Continued report from Rules Committee: meeting of November 9, 2005. (Heather Sterner) (discussion and possible action) (10 min) (attachment)
8. Report from Education, Outreach and Training Committee: meeting of December 8, 2005. (David Pilpel) (10 min) (attachment)
9. Report from School Board Ad Hoc Committee: meeting of December 20, 2005. (David Pilpel) (discussion and possible action) (10 min) (attachment)
10. Continued clarification of Sunshine Ordinance Task Force Complaint Procedures. (David Pilpel) (discussion and possible action) (10 min) (attachment)
11. Administrator's Report. (no action item) (5 minutes) (attachment)
12. Public comment for items not listed on the agenda. Public comment to be held at 5:00 p.m., or as soon thereafter as possible. (no action item) (10 min) (no attachment)
13. Announcements, questions, and future agenda items from the Task Force. (no action item) (5 min) (no attachment)

Adjournment

Next Regular Meeting January 24, 2006

**THE AGENDA PACKET IS AVAILABLE FOR REVIEW
MONDAY THROUGH FRIDAY AT CITY HALL, ROOM 244**

SUNSHINE ORDINANCE TASK FORCE HEARING PROCEDURES

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations.

1. Complainant presents his/her facts and evidence 5 minutes

Other parties present facts and evidence	Up to 3 minutes each
2. City responds	5 minutes
Other parties of City respond	Up to 3 minutes each

Above total speaking time for Complainant and City to be the same

3. Complainant presents rebuttal	3 minutes
4. Public comment	Up to 3 minutes each

(Excluding Complainant & City response, witnesses)

5. Matter is with the Task Force for discussion and deliberation
6. Vote by Task Force

Note: Time must be adhered to, if a speaker is interrupted by questions, the interruption does not count against his/her time.

Disability Access: The hearing room is wheelchair accessible.

Chemical-Based Products: In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals.

Cell phones, pagers and similar sound-producing electronic devices : The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decision in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact Frank Darby by mail to Administrator, Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102-4689; by phone at 415 554 7724; by fax at 415 554 7854; or by email at sotf@sfgov.org.

Citizens interested in obtaining a free copy of the Sunshine Ordinance can request a copy from Mr. Darby or by printing Chapter 67 of the San Francisco Administrative Code on the Internet, <http://www.sfgov.org/sunshine/>

Lobbyist Registration & Reporting Requirements

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance (SF Campaign & Governmental Conduct Code Sec. 2.100) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA

94102; telephone (415 581-2300; fax (415 581-2317); web site: sfgov.org/ethics.


[sfgov](#) | [residents](#) | [business](#) | [government](#) | [visitors](#) | [online services](#) | [search](#)
[Home](#) >> [Sunshine Meeting Index](#) >> [Sunshine Ordinance Task Force](#)

Board of Supervisors

Sunshine Ordinance Task Force



January 3, 2006

SUNSHINE ORDINANCE TASK FORCE MINUTES

SPECIAL MEETING

Tuesday, January 3, 2006
4:00 p.m., City Hall, Room 408

Task Force Members

Seat 1	Erica Craven (Vice Chair)	Seat 8	Bruce Wolfe
Seat 2	Richard Knee	Seat 9	Vacant
Seat 3	Sue Cauthen	Seat 10	Nick Mueller
Seat 4	Vacant	Seat 11	Marjorie Ann Williams
Seat 5	Heather Sterner		
Seat 6	Doug Comstock (Chair)	Ex-officio	Gloria Young
Seat 7	David Pilpel	Ex-officio	Vacant

DOCUMENTS DEPT.

MAR 13 2007

SAN FRANCISCO
PUBLIC LIBRARY

Call to Order The meeting was called to order at 4:05 p.m.

Roll Call Present: Craven, Knee, Cauthen, Sterner, Comstock, Pilpel (arrived at 4:32 p.m.), Wolfe (arrived at 4:15 p.m.), Mueller, Williams (Excused)

Deputy City Attorney: Ernie Llorente

Administrator: Frank Darby

Agenda Changes: Item #12 was heard after Item #3

1. Approval of minutes of November 22, 2005.

Speakers: None

Motion to approve minutes of November 22, 2005. (Cauthen / Knee)

Ayes: Craven, Knee, Cauthen, Sterner, Comstock, Mueller

Absent: Pilpel, Wolfe

Excused: Williams

2. Report from Complaint Committee meeting of December 13, 2005.

Member Cauthen made the report.

In order to accommodate the public and out of respect for our members, Chair Comstock asked all members to read their packets carefully and think concisely about their questions to complainants and respondents before any hearing in order to keep within our preset 30 minute estimate of time per hearing as our agenda publicly notices.

To that end the chair will limit a members questioning time to 10 minutes at maximum and request that members ask only for new and pertinent information that is not found in the packet. The Chairs request was accepted without dissent and therefore will be enforced beginning with today's meeting.

05039 Recommendation to accept jurisdiction of complaint filed by Louis Dillon against the Golden Gate Park Stables Working Group for alleged violation of open meeting laws in that the Working Group failed to provide notice of its meetings and failed to allow public comment during its meetings in violation of the Sunshine Ordinance.

Speakers: Louis Dillan, Complainant; Jaci Fong, Director of Property Management, Recreation and Park Department.

Motion to accept jurisdiction of complaint filed by Louis Dillon against the Golden Gate Park Stables Working Group for alleged violation of open meeting laws in that the Working Group failed to provide notice of its meetings and failed to allow public comment during its meetings in violation of the Sunshine Ordinance. (Knee / Mueller)

Ayes: Craven, Knee, Cauthen, Sterner, Comstock, Wolfe, Mueller

Absent: Pilpel

Excused: Williams

3. 05039 Public Hearing, complaint filed by Louis Dillon against the Golden Gate Park Stables Working Group for alleged violation of open meeting laws in that the Working Group failed to provide notice of its meetings and failed to allow public comment during its meetings in violation of the Sunshine Ordinance.

Speakers: Louis Dillan, Complainant; Kimo Crossman, Member of the Public; Jaci Fong, Director of Property Management, Recreation and Park Department.

Motion finding that the Golden Gate Park Stables Working Group is a Policy Body and that the Working Group violated the Sunshine Ordinance by failing to provide notice of its meetings, a meeting agenda, and public comment during its meetings. That a copy of the Order of Determination be sent to the Board of Supervisors with a letter indicating the unfortunate fact that the working group did not

have the staffing necessary to provide public noticing. That, in the future, if the Board of Supervisors establish another Policy Body that the Policy Body is provided the means to provide such notice.
(Sterner / Knee)

Ayes: Craven, Knee, Cauthen, Sterner, Comstock, Wolfe, Mueller

Noes: Pilpel

Excused: Williams

4. Recommend to the Full Task Force from the Compliance and Amendments Committee that the San Francisco Police Departments non-compliance with the November 22, 2005, Order of Determination be referred to the Police Commission for policy review and determination.

Speaker: David Parker, Complainant; Lt. Doug Groshong, Legal Division, San Francisco Police Department

Motion to accept the recommendation. (Knee / Cauthen)

Ayes: Craven, Knee, Cauthen, Sterner, Comstock, Pilpel, Wolfe, Mueller

Excused: Williams

Chair Comstock indicated that he will work with the Vice-Chair and Deputy City Attorney Llorente to draft the letter.

5. Continued report from Compliance & Amendments Committee: meeting of November 17, 2005.

Member Knee made the report.

Speakers: None

6. Report from Compliance & Amendments Committee: meeting of December 14, 2005.

Member Knee made the report.

Speakers: Kimo Crossman, member of the public.

Member Craven requested that the Administrator provide the Compliance and Amendments Committee with the current provisions of the ordinance and the suggestions reached thus far at its next meeting.

Chair Comstock presented the Task Force with calligraphy titled "Bill of Rights" written by former Task Force member and chair James Chaffee. By consensus of the Task Force he requested that the Administrator add the "Bill of Rights" as an item on the next Task Force agenda for discussion and possible action to consider adopting the Bill of Rights as a preamble to the Sunshine Ordinance, and also to invite Mr. Chaffee to attend to discuss it.

7. Continued report from Rules Committee: meeting of November 9, 2005.

Member Sterner made the report.

Speakers: Kimo Crossman, member of the public.

Motion to accept the recommendation from the Rules Committee that when a complaint is before the Full Task Force both the recommendation of jurisdiction from the Complaint Committee and the public hearing be held during the same meeting of the Task Force. That this procedure be added into the written Complaint Procedure. (Sterner / Craven)

Ayes: Craven, Knee, Cauthen, Sterner, Comstock, Wolfe, Mueller

Noes: Pilpel

Excused: Williams

8. Report from Education, Outreach and Training Committee: meeting of December 8, 2005.

Member Pilpel made the report.

Speakers: None

9. Report from School Board Ad Hoc Committee: meeting of December 20, 2005.

Member Pilpel made the report.

Speakers: None

Motion to accept the recommendation from the School Board Ad Hoc Committee that a letter be sent to the San Francisco Unified School District identifying proposed amendments to their Open Government Policy, and to request that they postpone making a decision on the item. (Pilpel / Wolfe)

Ayes: Craven, Knee, Cauthen, Sterner, Comstock, Pilpel, Wolfe, Mueller

Excused: Williams

Member Knee mentioned that he represented the Task Force at the School Board's Rules Committee meeting on December 20, 2005.

Member Pilpel indicated that he would work with the Administrator to draft a letter to be reviewed and authorized by Chair Comstock.

10. Continued clarification of Sunshine Ordinance Task Force Complaint Procedures.

Member Pilpel presented his proposals for revising the Complaint and Hearing process procedures. However, the Task Force did not take

any action on the recommendations.

11. Administrator's Report.

The Administrator made the report.

Member Pilpel noted that the minutes for the November 22, 2005 Task Force meeting indicated that a letter would be sent to DTIS regarding the Order of Determination in the Augustine complaint (#05034).

Chair Comstock indicated that he will work with the Administrator to draft a letter to send to the Department of Telecommunication and Information Services citing the problems encountered by the Animal Care and Control Department in responding to a public records request.

Speakers: None

12. Public comment for items not listed on the agenda.

Speakers: David Parker, and Kimo Crossman, members of the public.

13. Announcements, questions, and future agenda items from the Task Force.

Chair Comstock informed Task Force members that he will be making changes to Committee assignments in a few days and asked Task Force Members to notify him if they wished to participate on a committee.

Member Pilpel expressed his desire that the Complaint Committee be given greater decision making authority with regards to complaints.

Adjournment

Meeting was adjourned at 7:10 p.m.

This meeting has been audio recorded and is on file in the Office of the Sunshine Ordinance Task Force.

Sunshine Ordinance Task Force



City Hall
Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-7724
Fax No. 554-7854
TDD/TTY No. 544-5227

<http://www.sfgov.org/sunshine/>

DOCUMENTS DEPT.

**SUNSHINE ORDINANCE TASK FORCE
AGENDA**

Tuesday, January 24, 2006
4:00 p.m., City Hall, Room 408

JAN 19 2006

SAN FRANCISCO
PUBLIC LIBRARY

Task Force Members

Seat 1	Erica Craven (Vice Chair)	Seat 8	Bruce Wolfe
Seat 2	Richard Knee	Seat 9	Vacant
Seat 3	Sue Cauthen	Seat 10	Nick Mueller
Seat 4	Vacant	Seat 11	Marjorie Ann Williams
Seat 5	Heather Sterner		
Seat 6	Doug Comstock (Chair)	Ex-officio	Gloria Young
Seat 7	David Pilpel	Ex-officio	Vacant

Note: Each item on the Agenda may include minutes, department or agency letters and reports; Task Force reports; and public correspondence. These items will be available for review at City Hall, Sunshine Ordinance Task Force, Room 244.

Call to Order

Roll Call

Agenda Changes

1. Approval of minutes of January 3, 2006. (action item) (5 minutes) (attachment)
 2. Consideration of "Sunshine Ordinance Bill of Rights" for possible adoption as a preamble to the Sunshine Ordinance. (discussion and possible action) (10 minutes) (attachment)
 3. Report from Complaint Committee meeting of November 8, 2005, December 13, 2005 & January 10, 2006. (Sue Cauthen) (action item) (10 min) (attachment)
- 05037 Recommendation to accept jurisdiction of complaint filed by Sue Cauthen on behalf of the Telegraph Hill Dwellers Parking & Traffic Committee against the Municipal Transportation Agency for alleged violation of Sections 67.21 and 67.24 of the Sunshine Ordinance by refusing to provide an informal legal opinion to the Municipal Transportation Agency Citizens Advisory Council. "

** Since Complainant, Sue Cauthen, is a member of the Task Force, she is recused from hearing her own complaint.

- 05040 Recommendation to accept jurisdiction of complaint filed by Juan De Anda against the Department of Public Health for alleged denying access to public records and minutes of previous meetings of the Latino Leadership Peer Mentorship Program.
- 05041 Recommendation to accept jurisdiction of complaint filed by John Wickham against the Department of Parking and Traffic for alleged denial of public records access, untimely response, and failure to provide written justification for non disclosure.
- 05042 Recommendation to accept jurisdiction of complaint filed by Steve Lynch against the San Francisco Fire Department for alleged violation of Sections 67.21, 67.25, 67.26 and 67.27 of the Sunshine Ordinance for denial of public records access and untimely response.
- 4. 05037 Public Hearing, complaint filed by Sue Cauthen on behalf of the Telegraph Hill Dwellers Parking & Traffic Committee against the Municipal Transportation Agency for alleged violation of Sections 67.21 and 67.24 of the Sunshine Ordinance by refusing to provide an informal legal opinion to the Municipal Transportation Agency Citizens Advisory Council.
(discussion and possible action) (30 minutes) (attachment)
- 5. 05040 Public Hearing, complaint filed by Juan De Anda against the Department of Public Health for alleged denying access to public records and minutes of previous meetings of the Latino Leadership Peer Mentorship Program.
(discussion and possible action) (30 minutes) (attachment)
- 6. 05041 Public Hearing, complaint filed by John Wickham against the Department of Parking and Traffic for alleged denial of public records access, untimely response, and failure to provide written justification for non disclosure.
(discussion and possible action) (30 minutes) (attachment)
- 7. 05042 Public Hearing, complaint filed by Steve Lynch against the San Francisco Fire Department for alleged violation of Sections 67.21, 67.25, 67.26 and 67.27 of the Sunshine Ordinance for denial of public records access and untimely response.
(discussion and possible action) (30 minutes) (attachment)
- 8. 05029 Request to reconsider/rescind the October 25, 2005 Order of Determination of John Kelly against the District Attorney's Office.
(discussion and possible action) (30 minutes) (attachment)
 - (a.) Request by complainant Kelly that a new order be issued, compelling the District Attorneys Office to release the requested documents.
 - (b.) Request by Assistant District Attorney Bogott, that the Order of Determination be rescinded because the Task Force lacks jurisdiction to issue an order.

** Since Complainant, Sue Cauthen, is a member of the Task Force, she is recused from hearing her own complaint.

9. Report from Compliance & Amendments Committee: meeting of January 11, 2006. (Richard Knee) (discussion and possible action) (10 min) (attachment)
10. Report from Education, Outreach and Training Committee: meeting of January 13, 2006. (David Pilpel) (discussion and possible action) (10 min) (attachment)
11. Administrator's Report. (no action item) (5 minutes) (attachment)
12. Public comment for items not listed on the agenda. Public comment to be held at 5:00 p.m., or as soon thereafter as possible. (no action item) (10 min) (no attachment)
13. Announcements, questions, and future agenda items from the Task Force. (no action item) (5 min) (no attachment)

Adjournment

Next Regular Meeting February 28, 2006

THE AGENDA PACKET IS AVAILABLE FOR REVIEW
MONDAY THROUGH FRIDAY AT CITY HALL, ROOM 244

SUNSHINE ORDINANCE TASK FORCE HEARING PROCEDURES

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations.

- | | | |
|----|---|----------------------|
| 1. | Complainant presents his/her facts and evidence | 5 minutes |
| | Other parties present facts and evidence | Up to 3 minutes each |
| 2. | City responds | 5 minutes |
| | Other parties of City respond | Up to 3 minutes each |

Above total speaking time for Complainant and City to be the same

- | | | |
|----|---|----------------------|
| 3. | Complainant presents rebuttal | 3 minutes |
| 4. | Public comment | Up to 3 minutes each |
| | (Excluding Complainant & City response, witnesses) | |
| 5. | Matter is with the Task Force for discussion and deliberation | |
| 6. | Vote by Task Force | |

Note: Time must be adhered to, if a speaker is interrupted by questions, the interruption does not count against his/her time.

Disability Access: The hearing room is wheelchair accessible.

Chemical-Based Products: In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals.

Cell phones, pagers and similar sound-producing electronic devices : The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decision in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact Frank Darby by mail to Administrator, Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102-4689; by phone at 415 554 7724; by fax at 415 554 7854; or by email at sotf@sfgov.org.

Citizens interested in obtaining a free copy of the Sunshine Ordinance can request a copy from Mr. Darby or by printing Chapter 67 of the San Francisco Administrative Code on the Internet, <http://www.sfgov.org/sunshine/>

Lobbyist Registration & Reporting Requirements

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance (SF Campaign & Governmental Conduct Code Sec. 2.100) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415 581-2300; fax (415 581-2317); web site: sfgov.org/ethics.

TEXT ONLY:



PRINT:



TEXT SIZE:

**January 24, 2006****SUNSHINE ORDINANCE TASK FORCE
MINUTES****Tuesday, January 24, 2006
4:00 p.m., City Hall, Room 408**

DOCUMENTS DEPT.

JUN - 9 2008

SAN FRANCISCO
PUBLIC LIBRARY**Task Force Members**

Seat 1	Erica Craven (Vice Chair)	Seat 8	Bruce Wolfe
Seat 2	Richard Knee	Seat 9	Vacant
Seat 3	Sue Cauthen	Seat 10	Nick Mueller
Seat 4	Vacant	Seat 11	Marjorie Ann Williams
Seat 5	Heather Sterner		
Seat 6	Doug Comstock (Chair)	Ex-officio	Gloria Young
Seat 7	David Pilpel	Ex-officio	Vacant

Call to Order The meeting called to order at 4:05 p.m.

Roll Call Present: Craven (arrived at 4:44 p.m.), Knee, Cauthen, Sterner, Comstock, Pilpel (arrived at 4:13), Mueller, Williams
Absent: Wolfe

Deputy City Attorney: Ernie Llorente**Administrator:** Frank Darby**Agenda Changes:** None

- Approval of minutes of January 3, 2006.
Speakers: None
Motion to approve minutes of January 3, 2006. (Knee / Mueller)
Ayes: Knee, Cauthen, Sterner, Comstock, Mueller, Williams
Absent: Craven, Pilpel, Wolfe
- Consideration of "Sunshine Ordinance Bill of Rights" for possible adoption as a preamble to the Sunshine Ordinance.
Speakers: James Chaffee, Kimo Crossman, Peter Warfield, Lurilla Harris, Juan De Anda, Martin MacIntyre.
Motion to adopt and to send to the Compliance and Amendments Committee to conform text of the Bill of Rights into the language of the Sunshine Ordinance with consideration of comments from the Task Force and the public. (Cauthen / Comstock)

Ayes: Knee, Cauthen, Sterner, Comstock, Mueller, Williams

Noes: Pilpel

Absent: Craven, Wolfe

3. Report from Complaint Committee meeting of November 8, 2005, December 13, 2005 & January 10, 2006.

05037 Recommendation to accept jurisdiction of complaint filed by Sue Cauthen on behalf of the Telegraph Hill Dwellers Parking & Traffic Committee against the Municipal Transportation Agency for alleged violation of Sections 67.21 and 67.24 of the Sunshine Ordinance by refusing to provide an informal legal opinion to the Municipal Transportation Agency Citizens Advisory Council.

Motion to recuse Member Cauthen (Pilpel / Knee)

Ayes: Craven, Knee, Cauthen, Sterner, Comstock, Pilpel, Mueller, Williams

Absent: Wolfe

Speakers: None

Motion to accept jurisdiction. (Pilpel / Williams)

Ayes: Craven, Knee, Sterner, Comstock, Pilpel, Mueller, Williams

Absent: Wolfe

Recused: Cauthen

05040 Recommendation to accept jurisdiction of complaint filed by Juan De Anda against the Department of Public Health for alleged denying access to public records and minutes of previous meetings of the Latino Leadership Peer Mentorship Program.

Speakers: None

Motion to accept jurisdiction. (Cauthen / Mueller)

Ayes: Knee, Cauthen, Sterner, Comstock, Pilpel, Mueller, Williams

Absent: Craven, Wolfe

05041 Recommendation to accept jurisdiction of complaint filed by John Wickham against the Department of Parking and Traffic for alleged denial of public records access, untimely response, and failure to provide written justification for non disclosure.

Speakers: None

Motion to accept jurisdiction. (Cauthen / Mueller)

Ayes: Craven, Knee, Cauthen, Sterner, Comstock, Pilpel, Mueller, Williams

Absent: Wolfe

05042 Recommendation to accept jurisdiction of complaint filed by Steve Lynch against the San Francisco Fire Department for alleged violation of Sections 67.21, 67.25, 67.26 and 67.27 of the Sunshine Ordinance for denial of public records access and untimely response.

Continued to the February 28, 2006, meeting by agreement of the parties.

4. 05037 Public Hearing, complaint filed by Sue Cauthen on behalf of the Telegraph Hill Dwellers Parking & Traffic Committee against the Municipal Transportation Agency for alleged violation of Sections 67.21 and 67.24 of the Sunshine Ordinance by refusing to provide an informal legal opinion to the Municipal Transportation Agency Citizens Advisory Council.

Speakers: Sue Cauthen, Complainant; Daniel Murphy, William Seagilman, Norman Rolfe, Kimo Crossman, Joan Downty, Martin MacIntyre, Maggie Lynch, Director of Media Relations, Municipal

Transportation Agency. Public: Lurilla Harris, Peter Warfield

Motion finding no violation. Based on the facts as presented at this hearing although the Task Force does not find a violation of the ordinance, it is concerned and troubled by what appears to be a violation of the spirit of the Sunshine Ordinance and prop 59, which extends open government.

The Task Force recommends that the Municipal Transportation Agency look at its current policy which appears to be questionable, and further recommends that procedures be implemented to release information that the Citizens Advisory Council needs in order to conduct its business. (Craven / Sterner)

Ayes: Craven, Knee, Sterner, Comstock, Mueller, Williams

Noes: Pilpel

Absent: Wolfe

Recused: Cauthen

5. 05040 Public Hearing, complaint filed by Juan De Anda against the Department of Public Health for alleged denying access to public records and minutes of previous meetings of the Latino Leadership Peer Mentorship Program.

Speakers: Juan De Anda, Complainant; Susan Esposito, Assistant Director of Adult Services, Department of Public Health; Dr. Tina Yee, Director, Cultural Competence & Client Relations, Community Behavioral Health Services. Dr. Bob Cabaj, Director of Community Health Services. Benito Casados, Co-Chair, Latino Leadership for Peer Environment Project. Public: Helynna Brooke, Director of San Francisco Mental Health Board.

Motion finding no violation because the Latino Leadership Peer Mentorship Program is not a Policy Body or a Passive Meeting Body. (Knee / Mueller)

Ayes: Craven, Knee, Cauthen, Sterner, Comstock, Pilpel, Mueller, Williams

Absent: Wolfe

6. 05041 Public Hearing, complaint filed by John Wickham against the Department of Parking and Traffic for alleged denial of public records access, untimely response, and failure to provide written justification for non disclosure.

Speaker: John Wickham, Complainant; Maggie Lynch, Public Information Officer, Department of Parking and Traffic.

Complaint withdrawn by complainant.

7. 05042 Public Hearing, complaint filed by Steve Lynch against the San Francisco Fire Department for alleged violation of Sections 67.21, 67.25, 67.26 and 67.27 of the Sunshine Ordinance for denial of public records access and untimely response.

Previously continued to the February 28, 2006, meeting.

8. 05029 Request to reconsider/rescind the October 25, 2005 Order of Determination of John Kelly against the District Attorney's Office.

(a.) Request by complainant Kelly that a new order be issued, compelling the District Attorneys Office to release the requested documents.

(b.) Request by Assistant District Attorney Bogott, that the Order of Determination be rescinded because the Task Force lacks jurisdiction to issue an order.

Speakers: John Kelly, Complainant; Thomas Bogott, District Attorney's Office

The parties presented their requests. However, the Task Force did not take any action on their requests.

9. Report from Compliance & Amendments Committee: meeting of January 11, 2006.
Member Knee made the report.
Speakers: None
10. Report from Education, Outreach and Training Committee: meeting of January 13, 2006.
Member Pilpel made the report.
Speakers: None
11. Administrator's Report.
The Administrator made the report.
Speakers: None
In accordance with Committee consensus Chair Comstock asked the Administrator to provide a report on the status of vacancies at its February meeting.
12. Public comment for items not listed on the agenda. Public comment to be held at 5:00 p.m., or as soon thereafter as possible.
Speakers: Kimo Crossman, James Chaffee, Peter Warfield, Martin MacIntyre
13. Announcements, questions, and future agenda items from the Task Force.
Member Pilpel made the following remarks:
The SFUSD adopted an open Government Policy. They also are now using speaker cards, and not requiring attendees to sign into the building for night meetings.
With regards to the Clerk of the Boards budget, he would like to be informed if there are any budget changes that would affect support to the Task Force.
Asked that the Administrator, in April, provide to the three committees of the Task Force a copy of their draft Annual Report for review and input.
Member Knee reported a concern expressed by Milton Marks, member of the Community College Board, regarding the effort to bring more sunshine to the Community College District (CCD) seems to be falling by the wayside. Knee suggested that the Task Force reconvene that particular committee to work with the CCD
Member Knee encouraged the Task Force members to attend the Thursday, March 16, event of the Society of Professional Journalists. They will be handing out their annual James Madison Award, honoring individuals and organizations who have contributed to the cause of Freedom of Information and the First Amendment.

Adjournment

Meeting was adjourned at 8:33 p.m.

This meeting has been audio recorded and is on file in the Office of the Sunshine Ordinance Task Force.


[sfgov](#) | [residents](#) | [business](#) | [government](#) | [visitors](#) | [online services](#) | [about](#)
[Home](#) >> [Sunshine Meeting Index](#) >> [Sunshine Ordinance Task Force](#)

Board of Supervisors

Sunshine Ordinance Task Force

February 28, 2006

SUNSHINE ORDINANCE TASK FORCE

AGENDA

Tuesday, February 28, 2006
4:00 p.m., City Hall, Room 408

Task Force Members

DOCUMENTS DEPT

FEB 23 2006

SAN FRANCISCO
PUBLIC LIBRARY

02-23-06 PL4-51 REC

Seat 1	Erica Craven (Vice Chair)	Seat 8	Bruce Wolfe
Seat 2	Richard Knee	Seat 9	Vacant
Seat 3	Sue Cauthen	Seat 10	Nick Mueller
Seat 4	Vacant	Seat 11	Marjorie Ann Williams
Seat 5	Heather Sterner		
Seat 6	Doug Comstock (Chair)	Ex-officio	Gloria Young
Seat 7	David Pilpel	Ex-officio	Vacant

Note: Each item on the Agenda may include minutes, department or agency letters and reports; Task Force reports; and public correspondence. These items will be available for review at City Hall, Sunshine Ordinance Task Force, Room 244.

Call to Order

Roll Call

Agenda Changes

1. Approval of minutes of January 24, 2006. (action item) (5 minutes) (attachment)
2. Discussion regarding recognition of service for David Parker for his community service as a member of the Sunshine Ordinance Task Force.

(discussion and possible action) (10 minutes) (no attachment)
3. Report from Complaint Committee meeting of January 10, 2006.

- (Sue Cauthen) (action item) (10 min) (attachment)
- 05042 Recommendation to accept jurisdiction of complaint filed by Steve Lynch against the San Francisco Fire Department for alleged violation of Sections 67.21, 67.25, 67.26 and 67.27 of the Sunshine Ordinance for denial of public records access and untimely response.
4. 05042 Public Hearing, complaint filed by Steve Lynch against the San Francisco Fire Department for alleged violation of Sections 67.21, 67.25, 67.26 and 67.27 of the Sunshine Ordinance for denial of public records access and untimely response.
- (discussion and possible action) (30 minutes) (attachment)
5. Discussion regarding whether the public can have direct access to Task Force Members personal e-mail addresses, and whether current policy by the Administrator of receiving and filing general public e-mails for Task Force review should be continued.
- (discussion and possible action) (15 minutes) (no attachment)
6. Report from Compliance & Amendments Committee: meeting of February 13, 2006. (Richard Knee) (discussion and possible action) (10 min) (attachment)
7. Report from Education, Outreach and Training Committee: meeting of February 9, 2006. (David Pilpel) (discussion and possible action) (10 min) (attachment)
8. Administrator's Report. (no action item) (5 minutes) (attachment)
9. Public comment for items not listed on the agenda. Public comment to be held at 5:00 p.m., or as soon thereafter as possible. (no action item) (10 min) (no attachment)
10. Announcements, questions, and future agenda items from the Task Force. (no action item) (5 min) (no attachment)
- Adjournment Next Regular Meeting March 28, 2006**

**THE AGENDA PACKET IS AVAILABLE FOR REVIEW
MONDAY THROUGH FRIDAY AT CITY HALL, ROOM 244**

SUNSHINE ORDINANCE TASK FORCE HEARING PROCEDURES

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations.

- | | | |
|----|---|----------------------|
| 1. | Complainant presents his/her facts and evidence | 5 minutes |
| | Other parties present facts and evidence | Up to 3 minutes each |
| 2. | City responds | 5 minutes |
| | Other parties of City respond | Up to 3 minutes each |

Above total speaking time for Complainant and City to be the same

- | | | |
|----|---|----------------------|
| 3. | Complainant presents rebuttal | 3 minutes |
| 4. | Public comment | Up to 3 minutes each |
| | (Excluding Complainant & City response, witnesses) | |
| 5. | Matter is with the Task Force for discussion and deliberation | |
| 6. | Vote by Task Force | |

Note: Time must be adhered to, if a speaker is interrupted by questions, the interruption does not count against his/her time.

Disability Access: The hearing room is wheelchair accessible.

Chemical-Based Products: In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals.

Cell phones, pagers and similar sound-producing electronic devices : The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decision in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact Frank Darby by mail to Administrator, Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102-4689; by phone at 415 554 7724; by fax at 415 554 7854; or by email at sof@sfgov.org.

Citizens interested in obtaining a free copy of the Sunshine Ordinance can request a copy from Mr. Darby or by printing Chapter 67 of the San Francisco Administrative Code on the Internet, <http://www.sfgov.org/sunshine/>

Lobbyist Registration & Reporting Requirements

Individuals and entities that influence or attempt to influence local legislative or

administrative action may be required by the San Francisco Lobbyist Ordinance (SF Campaign & Governmental Conduct Code Sec. 2.100) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415 581-2300; fax (415 581-2317); web site: sfgov.org/ethics.



Board of Supervisors

Sunshine Ordinance Task Force



February 28, 2006

SUNSHINE ORDINANCE TASK FORCE
MINUTESTuesday, February 28, 2006
4:00 p.m., City Hall, Room 408

Task Force Members

Seat 1	Erica Craven (Vice Chair)	Seat 8	Bruce Wolfe
Seat 2	Richard Knee	Seat 9	Vacant
Seat 3	Sue Cauthen	Seat 10	Nick Mueller
Seat 4	Vacant	Seat 11	Marjorie Ann Williams
Seat 5	Heather Sterner		
Seat 6	Doug Comstock (Chair)	Ex-officio	Gloria Young
Seat 7	David Pilpel	Ex-officio	Vacant

DOCUMENTS DEPT.

Call to Order The meeting called to order at 4:03 p.m.

MAR 13 2007

Roll Call Present: Craven, Knee (arrived at 5 p.m.),
Sterner, Comstock, Pilpel (arrived at 4:12 p.m.), Mueller,
Williams, Wolfe
Absent: Cauthen

SAN FRANCISCO
PUBLIC LIBRARY

Deputy City Attorney: Ernie Llorente

Administrator: Frank Darby

Agenda Changes: Item #3 & 4 were heard after item number 9, item # 6, 7, 8 & 10
were heard after item number 4.

1. Approval of minutes of January 24, 2006. (action item) (5 minutes)

Speakers: Peter Warfield, Kimo Crossman: expressed concern re: minutes omitting
comment by the public.

Motion to approve minutes of January 24, 2006. (Sterner / Williams)

Ayes: Craven, Sterner, Comstock, Pilpel, Mueller, Williams, Wolfe

Excused: Knee

Absent: Cauthen

2. Discussion regarding recognition of service for David Parker for his community service as a member of the Sunshine Ordinance Task Force.

(discussion and possible action) (10 minutes) (no attachment)

Speakers: None

Chair Comstock, by consensus of the Task Force, asked the Administrator to obtain a special recognition template from the Board of Supervisors and to use it to draft a special recognition for former member David Parker, for review by the Task Force, in honor of his service.

3. Report from Complaint Committee meeting of January 10, 2006.

Member Wolfe made the report.

Speakers: None

- 05042 Recommendation to accept jurisdiction of complaint filed by Steve Lynch against the San Francisco Fire Department for alleged violation of Sections 67.21, 67.25, 67.26 and 67.27 of the Sunshine Ordinance for denial of public records access and untimely response.

Speakers: John Darmanin: in support of jurisdiction.

Motion to accept jurisdiction. (Wolfe / Mueller)

Ayes: Craven, Knee, Sterner, Comstock, Pilpel, Mueller, Williams, Wolfe

Absent: Cauthen

4. 05042 Public Hearing, complaint filed by Steve Lynch against the San Francisco Fire Department for alleged violation of Sections 67.21, 67.25, 67.26 and 67.27 of the Sunshine Ordinance for denial of public records access and untimely response.

Speakers: Steve Lynch, Complainant; John Darmanin in support of Complainant; Lorrie Kalos, Assistant Deputy Chief, San Francisco Fire Department

Motion finding a technical violation of the Sunshine Ordinance against the San Francisco Fire Department for failure to respond in a timely manner in response to the Complainants August 13, 2004 Sunshine request and December 13, 2005 Immediate Disclosure Request. The Task Force understands that the Department has undertaken a review of its procedures regarding their response to Sunshine Ordinance request and commends them for implementing new guidelines that will be submitted to the Task Force for its review and comment. (Craven / Knee)

Ayes: Craven, Knee, Sterner, Comstock, Pilpel, Mueller, Wolfe

Absent: Cauthen, Williams

By consensus of the Task Force the San Francisco Fire Department will submit its new guidelines to the Education, Outreach and Training Committee.

5. Discussion regarding whether the public can have direct access to Task Force Members personal e-mail addresses, and whether current policy by the Administrator of receiving and filing general public e-mails for Task Force review should be continued.

Speakers: Kimo Crossman, James Chaffee, Peter Warfield, and John Darmanin: supports public access to Task Force members e-mail addresses.

Continued to the next Task Force meeting, without objection.

Chair Comstock by consensus of the Task Force asked the Administrator to

- a. Continue the current practice until the next meeting.
- b. To provide an index identifying all communications received.
- c. To investigate the feasibility of the City providing each Task Force member with an e-mail account.

6. Report from Compliance & Amendments Committee: meeting of February 13, 2006.

Member Knee made the report.

Speaker: None

7. Report from Education, Outreach and Training Committee: meeting of February 9, 2006.

Member Pilpel made the report.

Speakers: None

8. Administrator's Report.

The Administrator made the report.

Speaker: None

9. Public comment for items not listed on the agenda. Public comment to be held at 5:00 p.m., or as soon thereafter as possible.

Speakers:

- James Chaffee: expressed concern with the Task Force respecting its rules regarding complainants being treated fairly; and expressed the need to enforce the Sunshine Ordinance among City Departments.
- Kimo Crossman: expressed confusion regarding what is conflict of interest; and encouraged the Task Force to commemorate Sunshine week which is March 13-18.
- Peter Warfield: expressed the need for the Task Force to develop a procedure to create a communication file, which list every communication that it receives; expressed opposition to the restriction on public comment, which limits comments to items not on the agenda; and discussed the Task Forces lack of guidance on the type of contact Task Force members can have with the public.

Chair Comstock without objection asked the Administrator to invite a representative of the Ethics Commission to the next Task Force meeting to discuss Conflict of Interest.

Full text of comments are available on audio tape.

10. Announcements, questions, and future agenda items from the Task Force.

Member Pilpel informed the Task Force of:

- Hearings in Marin County concerning the release of names and salaries of Marin County Payroll data. (Marinij.com)
- His meeting with the Community College District re: making District and Board information public on their web site.
- Acknowledged the prior service to the Task Force by Deputy City Attorney Amy Akeman whose last day is today.
- His appointment to the Cities Wastewater Sub-Committee of the PUC-CAC, which deals with the sewer system.

Adjournment

Meeting was adjourned at 7:23 p.m.

This meeting has been audio recorded and is on file in the Office of the Sunshine Ordinance Task Force.



Sunshine Ordinance Task Force

March 28, 2006

SUNSHINE ORDINANCE TASK FORCE

AGENDA

Tuesday, March 28, 2006

4:00 p.m., City Hall, Room 408

DOCUMENTS DEPT.

MAR 24 2006

SAN FRANCISCO
PUBLIC LIBRARY

Task Force Members

Seat 1	Erica Craven (Vice Chair)	Seat 8	Bruce Wolfe
Seat 2	Richard Knee	Seat 9	Hanley Chan
Seat 3	Sue Cauthen	Seat 10	Nick Mueller
Seat 4	Pueng Vongs	Seat 11	Marjorie Ann Williams
Seat 5	Heather Sterner		
Seat 6	Doug Comstock (Chair)	Ex-officio	Gloria Young
Seat 7	David Pilpel	Ex-officio	Vacant

Note: Each item on the Agenda may include minutes, department or agency letters and reports; Task Force reports; and public correspondence. These items will be available for review at City Hall, Sunshine Ordinance Task Force, Room 244.

Call to Order

Roll Call

Agenda Changes

1. Approval of minutes of February 28, 2006. (action item) (5 minutes) (attachment)
2. Special recognition. (no action item) (5 minutes) (no attachment)
3. Supervisor of Public Records Report (Dorji Roberts) (discussion and possible action) (10 minutes) (attachment)
4. Report from Complaint Committee meeting of March 14, 2006.
(Sue Cauthen) (action item) (5 min) (attachment)

- 06001 Recommendation to accept jurisdiction of complaint filed by Unnamed Person against the Mayor's Office of Protocol for alleged failure to produce records and to respond in a timely manner.
5. 06001 Public Hearing, complaint filed by Unnamed Person against the Mayor's Office of Protocol for alleged failure to produce records and to respond in a timely manner. (discussion and possible action) (30 minutes) (attachment)
6. Continued discussion regarding whether the public can have direct access to Task Force Members personal e-mail addresses, and whether current policy by the Administrator of receiving and filing general public e-mails for Task Force Members review should be continued. (discussion and possible action) (15 minutes) (attachment)
7. Report from the Compliance and Amendments Committee: meeting of March 13, 2006, was cancelled (Richard Knee). (discussion) (5 min) (no attachment)
8. Report from Education, Outreach and Training Committee: meeting of March 9, 2006, and Special Meeting March 22, 2006. (David Pilpel) (discussion and possible action) (20 min) (attachment)
9. Administrator's Report. (no action item) (5 minutes) (attachment)
10. Public comment for items not listed on the agenda. Public comment to be held at 5:00 p.m., or as soon thereafter as possible. (no action item) (10 min) (no attachment)
11. Announcements, questions, and future agenda items from the Task Force. (no action item) (5 min) (no attachment)

Adjournment Next Regular Meeting April 25, 2006

**THE AGENDA PACKET IS AVAILABLE FOR REVIEW
MONDAY THROUGH FRIDAY AT CITY HALL, ROOM 244**

SUNSHINE ORDINANCE TASK FORCE HEARING PROCEDURES

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations.

- | | | |
|----|---|----------------------|
| 1. | Complainant presents his/her facts and evidence | 5 minutes |
| | Other parties present facts and evidence | Up to 3 minutes each |
| 2. | City responds | 5 minutes |
| | Other parties of City respond | Up to 3 minutes each |
| | Above total speaking time for Complainant and City to be the same | |
| 3. | Complainant presents rebuttal | 3 minutes |

4. Public comment Up to 3 minutes
each
(Excluding Complainant & City response, witnesses)
5. Matter is with the Task Force for discussion and deliberation
6. Vote by Task Force

Note: Time must be adhered to, if a speaker is interrupted by questions, the interruption does not count against his/her time.

Disability Access: The hearing room is wheelchair accessible.

Chemical-Based Products: In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals.

Cell phones, pagers and similar sound-producing electronic devices : The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decision in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact Frank Darby by mail to Administrator, Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102-4689; by phone at 415 554 7724; by fax at 415 554 7854; or by email at soff@sfgov.org.

Citizens interested in obtaining a free copy of the Sunshine Ordinance can request a copy from Mr. Darby or by printing Chapter 67 of the San Francisco Administrative Code on the Internet, <http://www.sfgov.org/sunshine/>

Lobbyist Registration & Reporting Requirements

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance (SF Campaign & Governmental Conduct Code Sec. 2.100) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415 581-2300; fax (415 581-2317); web site: sfgov.org/ethics.



Board of Supervisors

Sunshine Ordinance Task Force

March 28, 2006

SUNSHINE ORDINANCE TASK FORCE

MINUTES

Tuesday, March 28, 2006

4:00 p.m., City Hall, Room 408

Task Force Members

Seat 1	Erica Craven (Vice Chair)	Seat 8	Bruce Wolfe
Seat 2	Richard Knee	Seat 9	Hanley Chan
Seat 3	Sue Cauthen	Seat 10	Nick Mueller
Seat 4	Pueng Vongs	Seat 11	Marjorie Ann Williams
Seat 5	Heather Sterner		
Seat 6	Doug Comstock (Chair)	Ex-officio	Gloria Young
Seat 7	David Pilpel	Ex-officio	Vacant

DOCUMENTS DEPT.

MAR 13 2007

SAN FRANCISCO
PUBLIC LIBRARY

Call to Order The meeting called to order at 4:06 p.m.

Roll Call Present: Craven, Knee, Cauthen, Vongs, Sterner, Comstock, Pilpel, Wolfe (arrived at 4:12) Chan, Mueller, Williams
Excused: Craven

Deputy City Attorney: Ernie Llorente

Administrator: Frank Darby

- Approval of minutes of February 28, 2006.

Speakers: Peter Warfield; Kimo Crossman

Motion to approve minutes of February 28, 2006. (Pilpel / Williams)

Ayes:, Knee, Cauthen, Vongs, Sterner, Comstock, Pilpel, Chan, Mueller, Williams

Absent: Wolfe

Excused: Craven

2. Special recognition.

Continued to the April 25, 2006, Task Force meeting.

3. Supervisor of Public Records Report

Dorji Roberts, Deputy City Attorney, Office of the City Attorney made the report.

Speakers: Peter Warfield; Allen Grossman; Kimo Crossman;
Francisco Da Costa

Chair Comstock, by consensus of the Task Force requested that the Task Force be informed whenever a petition is filed with the City Attorney's Office, and the results.

4. Report from Complaint Committee meeting of March 14, 2006.

Member Cauthen made the report

- 06001 Recommendation to accept jurisdiction of complaint filed by Unnamed Person against the Mayor's Office of Protocol for alleged failure to produce records and to respond in a timely manner.

Speakers: None

Motion to accept the recommendation. (Cauthen / Mueller)

Ayes:, Knee, Cauthen, Vongs, Sterner, Comstock, Pilpel, Wolfe, Chan, Mueller, Williams

Excused: Craven

5. 06001 Public Hearing, complaint filed by Unnamed Person against the Mayor's Office of Protocol for alleged failure to produce records and to respond in a timely manner.

Speakers: Anonymous Complainant; Matthew Goudeau, Director, Mayor's Office of Protocol

Public Speakers: Peter Warfield; Kimo Crossman: for violation.

Motion finding the Mayor's Office of Protocol violated Sections 67.21, and 67.25 of the Sunshine Ordinance for failure to provide records, and failure to respond in a timely manner.

The Task Force requests that the Mayor's Office of Protocol release the documents immediately to the Sunshine Ordinance Task Force by close of business March 29, 2006, so that the Administrator can transmit them to the appropriate person.

The Task Force expresses disapproval with the actions taken by the

Mayor's Office of Protocol in stopping all attempts to comply with the Immediate Disclosure Request once a complaint was filed. This action is inappropriate, as it does not conform to the intent of the Sunshine Ordinance.

The Task Force urges the department to instruct its staff that they should make every effort to comply with a request even when a complaint is filed and/or when anonymity is requested. (Sterner / Mueller)

Ayes:, Knee, Cauthen, Vongs, Sterner, Comstock, Pilpel, Wolfe, Chan, Mueller, Williams

Excused: Craven

6. Continued discussion regarding whether the public can have direct access to Task Force Members personal e-mail addresses, and whether current policy by the Administrator of receiving and filing general public e-mails for Task Force Members review should be continued.

Public Speakers: James Chaffee; Peter Warfield; Kimo Crossman

After discussion by Task Force members and hearing public comment the Task Force took no action.

7. Report from the Compliance and Amendments Committee: meeting of March 13, 2006, was cancelled.

Member Knee made the report.

Public Speakers: Peter Warfield; Kimo Crossman

8. Report from Education, Outreach and Training Committee: Regular meeting of March 9, 2006, and Special meeting March 22, 2006.

Member Pilpel made the report.

Public Speakers: James Chaffee; Peter Warfield; Kimo Crossman

Chair Comstock, by consensus of the Task Force, instructed the Rules Committee meet to develop procedures for calling Special Meetings by Task Force Committees to recommend to the full Task Force.

Chair Comstock, by consensus of the Task Force, instructed member Pilpel to cease having any further meetings to discuss the subject matter described in item 2 of the March 22, 2006 Special Meeting; that it shall not be a subject matter for the Education, Outreach, and training Committee until the Rules Committee has made a recommendation regarding procedures to the Task Force, and the Task Force has had an opportunity to consider the matter as a whole.

Member Wolfe recommended that at the very least that there be an annual meeting for: (1) Departments to air out concerns regarding their experiences complying with the Sunshine Ordinance, and (2)

the public to air out concerns regarding non-compliance to the Sunshine Ordinance by Departments.

Chair Comstock, by consensus of the Task Force, asked Deputy City Attorney Llorente to work with Member Wolfe to draft specific language so that a possible discussion can be scheduled at the next Task Force meeting.

9. Administrator's Report.

The Administrator made the report.

10. Public comment for items not listed on the agenda. Public comment to be held at 5:00 p.m., or as soon thereafter as possible.

Speakers: Allen Grossman; James Chaffee; Kimo Crossman; Peter Warfield

11. Announcements, questions, and future agenda items from the Task Force.

Chair Comstock announced that he visited the Revenue Bond Oversight Committee and noticed that their minutes did not indicate how members voted so he requested that they change their minutes to reflect how each member voted, which he believes has now been done.

Member Cauthen noted that a similar incident occurred at the Library Commission meeting that there was no roll call vote on a heated subject regarding the Bernal Heights Library, which she brought to the attention of the library's attorney, that there should be a roll call on split votes.

Member Pilpel welcomed the new members. Suggested that the Task Force's by-laws be reviewed annually as part of or subsequent to the election of officers. Suggested that as a body and as individuals, members be respectful of diversity of points.

Adjournment Meeting was adjourned at 7:44 p.m.

This meeting has been audio recorded and is on file in the Office of the Sunshine Ordinance Task Force.

Sunshine Ordinance Task Force



City Hall
Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-7724
Fax No. 554-7854
TDD/TTY No. 544-5227

<http://www.sfgov.org/sunshine/>

DOCUMENTS DEPT.

SUNSHINE ORDINANCE TASK FORCE

APR 20 2006

AGENDA

Tuesday, April 25, 2006
4:00 p.m., City Hall, Room 408

SAN FRANCISCO
PUBLIC LIBRARY

Task Force Members

Seat 1	Erica Craven (Vice Chair)	Seat 8	Bruce Wolfe
Seat 2	Richard Knee	Seat 9	Hanley Chan
Seat 3	Sue Cauthen	Seat 10	Nick Mueller
Seat 4	Pueng Vongs	Seat 11	Marjorie Ann Williams
Seat 5	Heather Sterner		
Seat 6	Doug Comstock (Chair)	Ex-officio	Gloria Young
Seat 7	David Pilpel	Ex-officio	Vacant

Note: Each item on the Agenda may include minutes, department or agency letters and reports; Task Force reports; and public correspondence. These items will be available for review at City Hall, Sunshine Ordinance Task Force, Room 244.

Call to Order

Roll Call

Agenda Changes

1. Approval of minutes of March 28, 2006. (action item) (5 minutes) (attachment)
2. Special recognition to Edgar Parker, Jr. for his community service as a contributing member of the Sunshine Ordinance Task Force. (no action item) (5 minutes) (no attachment)
3. Report from Complaint Committee meeting of March 14, 2006, and April 11, 2006. (Sue Cauthen) (action item) (5 min) (attachment)
06002 Recommendation to accept jurisdiction of complaint filed by Bob Kaufman against the City Attorneys Office for alleged incomplete production of records and non-disclosure of redacted information.
4. 06002 Public Hearing, complaint filed by Bob Kaufman against the City Attorneys Office for alleged incomplete production of records and non-disclosure of redacted information. (discussion and possible action) (30 minutes) (attachment)

5. Discussion regarding issues that custodians of records face when handling Immediate Disclosure and regular records requests. (discussion and possible action) (20 minutes) (no attachment)
6. Proposed rule from the Rules Committee for discussion and possible adoption by the Task Force. Rule change to the By-laws that add new procedures for Committee Chairs who call special meetings. (discussion and possible action) (15 minutes) (attachment)
7. Review of Draft Sunshine Ordinance Task Force 2005 Annual Report (discussion and possible action) (15 minutes) (attachment)
8. Report from the Compliance and Amendments Committee: meetings of April 10, 2006, and Special Meeting April 17, 2006. (Richard Knee). (discussion) (10 min) (attachment)
9. Report from Education, Outreach and Training Committee: meeting of April 13, 2006. (David Pilpel) (discussion and possible action) (10 min) (attachment)
10. Report from the Rules Committee: meeting of April 18, 2006. (Heather Sterner). (discussion) (10 min) (no attachment)
11. Administrator's Report. (no action item) (5 minutes) (attachment)
12. Public comment for items not listed on the agenda. Public comment to be held at 5:00 p.m., or as soon thereafter as possible. (no action item) (12 min) (no attachment)
13. Announcements, questions, and future agenda items from the Task Force. (no action item) (5 min) (no attachment)

Adjournment

Next Regular Meeting May 30, 2006

THE AGENDA PACKET IS AVAILABLE FOR REVIEW
MONDAY THROUGH FRIDAY AT CITY HALL, ROOM 244

SUNSHINE ORDINANCE TASK FORCE HEARING PROCEDURES

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations. Any person speaking during a public comment period may supply a brief written summary of their comments, which shall, if no more than 150 words, be included in the minutes. (Section 67.16)

Each member of the public who is unable to attend the public meeting or hearing may submit to the City, by the time the proceeding begins, written comments regarding the subject of the meeting or hearing; these comments will be made a part of the official public record. (Section 67.7-1 (c))

- | | |
|--|----------------------|
| 1. Complainant presents his/her facts and evidence | 5 minutes |
| Other parties present facts and evidence | Up to 3 minutes each |
| 2. City responds | 5 minutes |
| Other parties of City respond | Up to 3 minutes each |

Above total speaking time for Complainant and City to be the same

- | | |
|---|----------------------|
| 3. Complainant presents rebuttal | 3 minutes |
| 4. Public comment
(Excluding Complainant & City response, witnesses) | Up to 3 minutes each |
| 5. Matter is with the Task Force for discussion and deliberation | |
| 6. Vote by Task Force | |

Note: Time must be adhered to, if a speaker is interrupted by questions, the interruption does not count against his/her time.

Disability Access: The hearing room is wheelchair accessible.

Chemical-Based Products: In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals.

Cell phones, pagers and similar sound-producing electronic devices : The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decision in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact Frank Darby by mail to Administrator, Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102-4689; by phone at 415 554 7724; by fax at 415 554 7854; or by email at sof@sfgov.org.

Citizens interested in obtaining a free copy of the Sunshine Ordinance can request a copy from Mr. Darby or by printing Chapter 67 of the San Francisco Administrative Code on the Internet, <http://www.sfgov.org/sunshine/>

Lobbyist Registration & Reporting Requirements

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance (SF Campaign & Governmental Conduct Code Sec. 2.100) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415 581-2300; fax (415 581-2317); web site: sfgov.org/ethics.


[sfgov](#) | [residents](#) | [business](#) | [government](#) | [visitors](#) | [online services](#) | [search](#)
[Home](#) >> [Sunshine Meeting Index](#) >> [Sunshine Ordinance Task Force](#)

Board of Supervisors

Sunshine Ordinance Task Force

April 25, 2006

SUNSHINE ORDINANCE TASK FORCE

MINUTES

 F
88
#2
1/25/06
Tuesday, April 25, 2006

4:00 p.m., City Hall, Room 408

Task Force Members

Seat 1	Erica Craven (Vice Chair)	Seat 8	Bruce Wolfe
Seat 2	Richard Knee	Seat 9	Hanley Chan
Seat 3	Sue Cauthen	Seat 10	Nick Mueller
Seat 4	Pueng Vongs	Seat 11	Marjorie Ann Williams
Seat 5	Heather Sterner		
Seat 6	Doug Comstock (Chair)	Ex-officio	Gloria Young
Seat 7	David Pilpel	Ex-officio	Vacant

DOCUMENTS DEPT.

MAR 13 2007

SAN FRANCISCO
PUBLIC LIBRARY

Call to Order The meeting called to order at 4:02 p.m.

Roll Call Present: Craven, Cauthen, Vongs, Sterner, Comstock, Pilpel, Wolfe, Mueller, Williams

Absent: Chan

Excused: Knee

Deputy City Attorney: Ernie Llorente

Administrator: Frank Darby

- Approval of minutes of March 28, 2006.
Speakers: Peter Warfield; Lurilla Harris; Kimo Crossman
Motion to approve minutes of March 28, 2006. (Cauthen / Pilpel)
Ayes: Craven, Cauthen, Vongs, Sterner, Comstock, Pilpel, Wolfe,

Mueller, Williams

Absent: Chan

Excused: Knee

2. Special recognition to Edgar Parker, Jr. for his community service as a contributing member of the Sunshine Ordinance Task Force.

A Certificate of Honor was presented to Edgar Parker, Jr. for his community service as a contributing member of the Sunshine Ordinance Task Force.

Speakers: Edgar Parker, expressed gratitude.

3. Report from Complaint Committee meeting of March 14, 2006, and April 11, 2006.

Member Cauthen Made the Report

Speaker: Kimo Crossman

06002 Recommendation to accept jurisdiction of complaint filed by Bob Kaufman against the City Attorney's Office for alleged incomplete production of records and non-disclosure of redacted information.

Continued by agreement of the Complainant and Respondent-Department.

4. 06002 Public Hearing, complaint filed by Bob Kaufman against the City Attorneys Office for alleged incomplete production of records and non-disclosure of redacted information.

Continued by agreement of the Complainant and Respondent-Department.

5. Discussion regarding issues that custodians of records face when handling Immediate Disclosure and regular records requests.

Speakers: Kimo Crossman; Peter Warfield; Rose Dennis, Recreation and Parks Department

The Task Force heard statements from members of the public and a representative from the Recreation and Parks Department.

Members of the public and the department were encouraged to attend the May 8 meeting of the Compliance and Amendments Committee, where they will be discussing this matter further. The Department representative was asked to complete the "Department Sunshine Ordinance Survey" which is available on-line.

6. Proposed rule from the Rules Committee for discussion and possible adoption by the Task Force. Rule change to the By-laws that add new procedures for Committee Chairs who call special meetings.

Speakers: Peter Warfield; Kimo Crossman

Motion to adopt proposed rule as a new operating procedure.
(Sterner / Craven)

Ayes: Craven, Cauthen, Vongs, Sterner, Comstock, Wolfe, Mueller,
Williams

Noes: Pilpel

Absent: Chan

Excused: Knee

7. Review of Draft Sunshine Ordinance Task Force 2005 Annual Report

Speakers: Peter Warfield

Continued to the next regular meeting of the Task Force, without
objection.

8. Report from the Compliance and Amendments Committee: meetings
of April 10, 2006, and Special Meeting April 17, 2006.

Member Craven made the report.

Speakers: Peter Warfield

9. Report from Education, Outreach and Training Committee: meeting of
April 13, 2006.

Member Pilpel made the report.

10. Report from the Rules Committee: meeting of April 18, 2006.

Member Sterner made the report.

Speakers: Peter Warfield

11. Administrator's Report.

The Administrator made the report.

12. Public comment for items not listed on the agenda. Public comment
to be held at 5:00 p.m., or as soon thereafter as possible.

Speakers: Kimo Crossman; Peter Warfield

13. Announcements, questions, and future agenda items from the Task
Force.

Chair Comstock asked the Administrator to review the Task Forces
policy with regards to minutes and how might the By-laws be changed
to address the publics need for better information in our minutes and
to report on this at the next regular meeting. Member Craven asked
that the provisions of the Sunshine Ordinance regarding minutes of
public comment and the By-laws be provided to members prior to the
meeting.

Member Pipel indicated that the next meeting should include the election of offices, review of the procedures, and an appreciation for Member Sterner.

Member Williams suggested that the Task Force have a meeting amongst themselves regarding the Task Force's rules and regulations. Deputy City Attorney Llorente indicated that the meeting would need to be noticed and the public allowed to comment.

Member Craven asked the Administrator to provide the Compliance and Amendments Committee with a log regarding pending referrals.

Speakers: Peter Warfield

Adjournment The meeting was adjourned at 6:34 p.m.

This meeting has been audio recorded and is on file in the Office of the Sunshine Ordinance Task Force.

Sunshine Ordinance Task Force



City Hall
Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-7724
Fax No. 554-7854
TDD/TTY No. 544-5227

<http://www.sfgov.org/sunshine/>

**SUNSHINE ORDINANCE TASK FORCE
AGENDA**

Tuesday, May 23, 2006
4:00 p.m., City Hall, Room 408

DOCUMENTS DEPT.

Task Force Members

Seat 1 Erica Craven (Vice Chair)
Seat 2 Richard Knee
Seat 3 Sue Cauthen
Seat 4 Pueng Vongs
Seat 5 Kristin Chu
Seat 6 Doug Comstock (Chair)
Seat 7 David Pilpel

Seat 8 Bruce Wolfe
Seat 9 Hanley Chan
Seat 10 Nick Mueller
Seat 11 Marjorie Ann Williams

Ex-officio Gloria Young
Ex-officio Vacant

MAY 18 2006

SAN FRANCISCO
PUBLIC LIBRARY

Note: Each item on the Agenda may include minutes, department or agency letters and reports; Task Force reports; and public correspondence. These items will be available for review at City Hall, Sunshine Ordinance Task Force, Room 244.

Call to Order

Roll Call

Agenda Changes

1. Approval of minutes of April 25, 2006. (action item) (5 minutes) (attachment)
 2. Special recognition to Heather Sterner for her community service as a contributing member of the Sunshine Ordinance Task Force. (no action item) (5 minutes) (no attachment)
 3. Election of Officers: Chair and Vice-Chair (action item) (15 minutes) (no attachment)
 4. Report from Complaint Committee meeting of May 9, 2006. (Sue Cauthen) (action item) (5 min) (attachment)
- 06003 Recommendation to accept jurisdiction of complaint filed by John Avalos, on behalf of Supervisor Chris Daly, against the Mayors Office of Communications for alleged failure to produce documents in their control and to respond in 24 hours to an Immediate Disclosure Request as required under the Sunshine Ordinance.

5. 06003 Public Hearing, complaint filed by John Avalos, on behalf of Supervisor Chris Daly, against the Mayors Office of Communications for alleged failure to produce documents in their control and to respond in 24 hours to an Immediate Disclosure Request as required under the Sunshine Ordinance. (discussion and possible action) (30 minutes) (attachment)
6. Review Task Force By-laws, including consideration of changes to reflect the current operating procedure as it pertains to minutes. (discussion) (20 minutes) (attachment)
7. Review of Draft Sunshine Ordinance Task Force 2005 Annual Report (discussion and possible action) (15 minutes) (attachment)
8. Report from the Compliance and Amendments Committee: meeting of May 8, 2006. (Richard Knee). (discussion and possible action) (10 min) (attachment)
9. Report from Education, Outreach and Training Committee: meeting of May 11, 2006. (David Pilpel) (discussion and possible action) (10 min) (attachment)
10. Administrator's Report. (no action item) (5 minutes) (attachment)
11. Public comment for items not listed on the agenda. Public comment to be held at 5:00 p.m., or as soon thereafter as possible. (no action item) (12 min) (no attachment)
12. Announcements, questions, and future agenda items from the Task Force. (no action item) (5 min) (no attachment)

Adjournment

Next Regular Meeting June 27, 2006

THE AGENDA PACKET IS AVAILABLE FOR REVIEW
MONDAY THROUGH FRIDAY AT CITY HALL, ROOM 244

SUNSHINE ORDINANCE TASK FORCE HEARING PROCEDURES

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations. Any person speaking during a public comment period may supply a brief written summary of their comments, which shall, if no more than 150 words, be included in the minutes. (Section 67.16)

Each member of the public who is unable to attend the public meeting or hearing may submit to the City, by the time the proceeding begins, written comments regarding the subject of the meeting or hearing; these comments will be made a part of the official public record. (Section 67.7-1 (c))

- | | | |
|----|---|----------------------|
| 1. | Complainant presents his/her facts and evidence | 5 minutes |
| | Other parties present facts and evidence | Up to 3 minutes each |
| 2. | City responds | 5 minutes |
| | Other parties of City respond | Up to 3 minutes each |

Above total speaking time for Complainant and City to be the same

- | | | |
|----|--|----------------------|
| 3. | Complainant presents rebuttal | 3 minutes |
| 4. | Public comment
(Excluding Complainant & City response, witnesses) | Up to 3 minutes each |
| 5. | Matter is with the Task Force for discussion and deliberation | |
| 6. | Vote by Task Force | |

Note: Time must be adhered to, if a speaker is interrupted by questions, the interruption does not count against his/her time.

Disability Access: The hearing room is wheelchair accessible.

Chemical-Based Products: In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals.

Cell phones, pagers and similar sound-producing electronic devices : The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decision in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact Frank Darby by mail to Administrator, Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102-4689; by phone at 415 554 7724; by fax at 415 554 7854; or by email at sotf@sfgov.org.

Citizens interested in obtaining a free copy of the Sunshine Ordinance can request a copy from Mr. Darby or by printing Chapter 67 of the San Francisco Administrative Code on the Internet, <http://www.sfgov.org/sunshine/>

Lobbyist Registration & Reporting Requirements

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance (SF Campaign & Governmental Conduct Code Sec. 2.100) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415 581-2300; fax (415 581-2317); web site: sfgov.org/ethics.


[sfgov](#) | [residents](#) | [business](#) | [government](#) | [visitors](#) | [online services](#) | [search](#)
[Home](#) >> [Sunshine Meeting Index](#) >> [Sunshine Ordinance Task Force](#)

Board of Supervisors

Sunshine Ordinance Task Force

May 23, 2006

SUNSHINE ORDINANCE TASK FORCE

Tuesday, May 23, 2006

4:00 p.m., City Hall, Room 408

Task Force Members

Seat 1	Erica Craven (Vice Chair)	Seat 8	Bruce Wolfe
Seat 2	Richard Knee	Seat 9	Hanley Chan
Seat 3	Sue Cauthen	Seat 10	Nick Mueller
Seat 4	Pueng Vongs	Seat 11	Marjorie Ann Williams
Seat 5	Kristin Chu		
Seat 6	Doug Comstock (Chair)	Ex-officio	Gloria Young
Seat 7	David Pilpel	Ex-officio	Vacant

DOCUMENTS DEPT.

MAR 13 2007

SAN FRANCISCO
PUBLIC LIBRARY

Call to Order The meeting called to order at 4:07 p.m.

Roll Call Present: Craven, Knee, Cauthen, Vongs, Chu, Comstock, Pilpel, Wolfe, Chan, Mueller, Williams

Deputy City Attorney: Ernie Llorente

Administrator: Frank Darby

- Approval of minutes of April 25, 2006.
Speakers: Kimo Crossman minutes not sufficiently descriptive.
Motion to approve minutes of April 25, 2006. (Wolfe / Craven)
Ayes: Craven, Knee, Cauthen, Vongs, Chu, Comstock, Pilpel, Wolfe, Chan, Mueller, Williams
- Special recognition to Heather Sterner for her community service as a contributing member of the Sunshine Ordinance Task Force.

A Certificate of Honor was presented to Heather Sterner for her community service as a contributing member of the Sunshine Ordinance Task Force.

Speakers: Heather Sterner, expressed gratitude to the Task Force, the Deputy City Attorney and Administrator.

3. Election of Officers: Chair and Vice-Chair

Nominations for Chair: Doug Comstock and Erica Craven

Speakers: Kimo Crossman and Lurilla Harris supports Member Comstocks nomination.

A. Chair: Member Comstock

Ayes: Craven, Knee, Cauthen, Vongs, Chu, Chan, Mueller, Williams

Chair: Member Craven

Ayes: Comstock, Pilpel, Wolfe

B. Vice Chair Nomination: Erica Craven

Speakers: None

Ayes: Craven, Knee, Cauthen, Vongs, Chu, Comstock, Pilpel, Wolfe, Chan, Mueller, Williams

4. Report from Complaint Committee meeting of May 9, 2006.

Member Cauthen made the report

06003

Recommendation to accept jurisdiction of complaint filed by John Avalos, on behalf of Supervisor Chris Daly, against the Mayors Office of Communications for alleged failure to produce documents in their control and to respond in 24 hours to an Immediate Disclosure Request as required under the Sunshine Ordinance.

Member Pilpel indicated that he is friends with some members in the Mayor's Office of Communications and has done some volunteer work for them however, he is able to be fair and impartial.

Member Pilpel expressed concern as to whether the Task Force would be setting an inappropriate precedence by hearing an internal governmental affairs dispute between one elected official against another elected official, and whether the complaint can be properly adjudicated.

Member Craven referred to Government Code Section 6252.5 that allows an elected official the right to request information.

Speakers: Lurilla Harris and Kimo Crossman supports jurisdiction.

Motion to accept jurisdiction. (Cauthen / Wolfe)

Ayes: Craven, Knee, Cauthen, Vongs, Chu, Comstock, Wolfe, Chan, Mueller, Williams

Noes: Pilpel

5. 06003 Public Hearing, complaint filed by John Avalos, on behalf of Supervisor Chris Daly, against the Mayors Office of Communications for alleged failure to produce documents in their control and to respond in 24 hours to an Immediate Disclosure Request as required under the Sunshine Ordinance.

Member Cauthen indicated that Supervisor Daly appointed her to the Library Citizens Advisory Committee however, she is able to be fair and impartial.

Member Comstock indicated that Supervisor Daly has been supportive of the Task Force and prior proposed amendments to the Sunshine Ordinance however, he is able to be fair and impartial.

Speakers: John Avalos, Legislative Aide, on behalf of Supervisor Chris Daly; Jennifer Petrucione, Mayors Office of Communications; Kimo Crossman supports finding of a violation.

Member Pilpel moved to find a violation of Section 67.25 of the Sunshine Ordinance against the Mayors Office of Communications for untimely response. Member Craven moved to amend the motion to include a violation of Section 67.21 of the Sunshine Ordinance for failure to produce documents. (Craven / Wolfe)

Ayes: Craven, Knee, Cauthen, Vongs, Chu, Comstock, Wolfe, Chan, Mueller, Williams

Noes: Pilpel

Motion finding a violation of Sections 67.21 and 67.25 of the Sunshine Ordinance against the Mayors Office of Communications for failure to produce documents and to respond in a timely manner. (Craven / Wolfe)

Ayes: Craven, Knee, Cauthen, Vongs, Chu, Comstock, Pilpel, Wolfe, Chan, Mueller, Williams

Chair Comstock, by consensus of the Task Force, asked the Administrator to add on next months agenda an item for discussion and possible action regarding whether the Task Force, through the Chair, should ask the Mayor to appoint an ex-officio member to the Task Force.

6. Review Task Force By-laws, including consideration of changes to reflect the current operating procedure as it pertains to minutes.

Chair Comstock suggested that speaker cards be amended to allow the public to write a summary of their remarks of 20 words or less.

Member Pilpel suggested that draft minutes be sent to members of the public after the meeting for their review and comment prior to the next regular meeting.

Member Wolfe expressed concern that some members of the public may have difficulty writing or expressing themselves in writing

Member Cauthen suggested that Members with journalism experience take summary notes of public comment and submit them to the Administrator after each meeting.

Speakers: Kimo Crossman said that shortening minutes sends a message that public comment is not important. Lurilla Harris said that the Task Force accepted deficient April minutes and suggested that the Administrator e-mail draft public comment to the speakers on them. Emeric Kalman said minutes should provide a record of what happened at the meeting, adding that this is a citywide deficiency.

Member Pilpel volunteered to meet with the Administrator to review the By-Laws for possible revision and to submit proposed revisions to the Task Force at its June meeting.

Chair Comstock, by consensus of the Task Force, asked the Administrator to attempt to capture the public's comments beginning at the next meeting.

Continued without objection.

7. Review of Draft Sunshine Ordinance Task Force 2005 Annual Report

Member Pilpel indicated that he met with the Administrator to revise the report.

Speakers: None

Continued without objection.

8. Report from the Compliance and Amendments Committee: meeting of May 8, 2006.

Member Knee made the report

Speakers: Kimo Crossman suggested: the posting of real time captioning; changing public notice requirements from 3 to 10 days; establishment of an online citywide public meeting calendar, equal access to audio and video for public comment.

Chair Comstock expressed the importance of being able to explain to the Board of Supervisors the reason(s) for proposed Sunshine Ordinance amendments.

Member Pilpel asked, in reference to AB2927, if the Compliance and Amendments Committee can keep "apprised" of amendments to state law relative to the Brown Act, and Public Records Act, since they are referenced in the Sunshine Ordinance, and to report any changes to the Task Force.

9. Report from Education, Outreach and Training Committee: meeting of May 11, 2006.

Member Pilpel made the report

Member Williams suggested that the EOT have an agenda item to educate the general public on what their rights are.

Member Wolfe expressed an interest in having an extensive discussion regarding documents stored in electronic vs. printed form, and the need to conduct a survey or inquiry to find out what the disparities are between departments with the use of technology. He also expressed the need to do an inquiry with the public to find out what their needs and wants are.

Chair Comstock expressed his approval of such a meeting and that the information would be helpful to the Compliance and Amendments Committee as they consider amendments to the Sunshine Ordinance.

Speakers: Kimo Crossman – making electronic records available is a valuable tool for the public.

10. Administrator's Report.

The Administrator made the report

Speakers: Kimo Crossman supports bringing the Communication File to the meeting.

In response to the Chair's inquiry, the Administrator informed the Task Force that official City records will not be brought to the meeting for the public's review since it is not a controlled environment and doing so could result in the lost or damage to the record(s). He mentioned an incident that occurred in the previous week when a file was removed from the Clerk of the Board's Office without authorization.

11. Public comment for items not listed on the agenda. Public comment to be held at 5:00 p.m., or as soon thereafter as possible.

Speakers: Kimo Crossman spoke about Task Force authority; Emeric Kalman said that minutes should be stronger.

Chair Comstock, by consensus of the Task Force, asked the Administrator to add on next months agenda an item for discussion and possible action regarding whether the Task Force, through the Chair, should write a letter to the Recreation and Park Commission to inquire about their absence of minutes.

12. Announcements, questions, and future agenda items from the Task Force.

Member Mueller indicated that the "News" page on the Task Force's web site needs to be updated with current news.

Chair Comstock asked members to inform him of their interest to serve on a committee(s).

Chair Comstock asked the administrator to provide members with a revised contact list.

Speakers: Kimo Crossman asked that the Task Force add a discussion regarding making access to the public communication records available at any committee meeting.

Adjournment **The meeting was adjourned at 6:48 p.m.**

This meeting has been audio recorded and is on file in the Office of the Sunshine Ordinance Task Force.

Sunshine Ordinance Task Force



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-7724
Fax No. 554-7854
TDD/TTY No. 544-5227

<http://www.sfgov.org/sunshine/>

SUNSHINE ORDINANCE TASK FORCE DOCUMENTS DEPT.
AGENDA

Tuesday, June 27, 2006
4:00 p.m., City Hall, Room 408

JUN 23 2006

SAN FRANCISCO
PUBLIC LIBRARY

Task Force Members

Seat 1	Erica Craven (Vice Chair)	Seat 8	Bruce Wolfe
Seat 2	Richard Knee	Seat 9	Hanley Chan
Seat 3	Sue Cauthen	Seat 10	Nick Mueller
Seat 4	Pueng Vongs	Seat 11	Marjorie Ann Williams
Seat 5	Kristin Chu		
Seat 6	Doug Comstock (Chair)	Ex-officio	Gloria Young
Seat 7	David Pilpel	Ex-officio	Vacant

Note: Each item on the Agenda may include minutes, department or agency letters and reports; Task Force reports; and public correspondence. These items will be available for review at City Hall, Sunshine Ordinance Task Force, Room 244.

Call to Order

Roll Call

Agenda Changes

1. Approval of minutes of May 23, 2006. (action item) (5 minutes) (attachment)
2. Report from Complaint Committee meeting of March 14, 2006. (Sue Cauthen) (action item) (5 min) (attachment)
 - 06002 Recommendation to accept jurisdiction of complaint filed by Bob Kaufman against the City Attorneys Office for alleged incomplete production of records and non-disclosure of redacted information.
 - 06004 Recommendation to accept jurisdiction of complaint filed by Robert Planthold against the Municipal Transportation Agency for alleged incomplete production of documents, and failure to respond to an Immediate Disclosure Request in a timely manner.
3. 06002 Public Hearing, complaint filed by Bob Kaufman against the City Attorneys Office for alleged incomplete production of records and non-disclosure of redacted information. (discussion and possible action) (30 minutes) (attachment)

4. 06004 Public Hearing, complaint filed by Robert Planthold against the Municipal Transportation Agency for alleged incomplete production of documents, and failure to respond to an Immediate Disclosure Request in a timely manner.
5. Discussion re: How to make the self-tutorial (streaming video) more accessible to individuals who missed the required annual Sunshine and Ethics training. (discussion and possible action) (15 minutes) (attachment)
6. Review of Ethics Commission Draft Statement of Incompatible Activities (discussion and possible action) (15 minutes) (attachment)
7. Discussion re: Should the Task Force, through the Chair, write a letter to the Recreation and Park Commission to inquire about their absence of minutes. (discussion and possible action) (5 minutes) (no attachment)
8. Report re: Task Force By-laws, including consideration of changes to reflect the current operating procedure as it pertains to minutes? (David Pilpel) (discussion) (5 minutes) (no attachment)
9. Report re: Draft Sunshine Ordinance Task Force 2005 Annual Report (David Pilpel) (discussion) (5 minutes) (no attachment)
10. Report from the Compliance and Amendments Committee: meeting of June 12, 2006. (Richard Knee). (discussion and possible action) (10 min) (attachment)
11. Report from Education, Outreach and Training Committee: meeting of June 8, 2006. (David Pilpel) (discussion and possible action) (10 min) (attachment)
12. Administrator's Report. (no action item) (5 minutes) (attachment)
13. Public comment for items not listed on the agenda. Public comment to be held at 5:00 p.m., or as soon thereafter as possible. (no action item) (12 min) (no attachment)
14. Announcements, questions, and future agenda items from the Task Force. (no action item) (5 min) (no attachment)

Adjournment

Next Regular Meeting July 27, 2006

THE AGENDA PACKET IS AVAILABLE FOR REVIEW
MONDAY THROUGH FRIDAY AT CITY HALL, ROOM 244

SUNSHINE ORDINANCE TASK FORCE HEARING PROCEDURES

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations. Any person speaking during a public comment period may supply a brief written summary of their comments, which shall, if no more than 150 words, be included in the minutes. (Section 67.16)

Each member of the public who is unable to attend the public meeting or hearing may submit to the City, by the time the proceeding begins, written comments regarding the subject of the meeting or hearing; these comments will be made a part of the official public record. (Section 67.7-1 (c))

- | | |
|--|----------------------|
| 1. Complainant presents his/her facts and evidence | 5 minutes |
| Other parties present facts and evidence | Up to 3 minutes each |
| 2. City responds | 5 minutes |
| Other parties of City respond | Up to 3 minutes each |

Above total speaking time for Complainant and City to be the same

- | | |
|---|----------------------|
| 3. Complainant presents rebuttal | 3 minutes |
| 4. Public comment
(Excluding Complainant & City response, witnesses) | Up to 3 minutes each |
| 5. Matter is with the Task Force for discussion and deliberation | |
| 6. Vote by Task Force | |

Note: Time must be adhered to, if a speaker is interrupted by questions, the interruption does not count against his/her time.

Disability Access: The hearing room is wheelchair accessible.

Chemical-Based Products: In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals.

Cell phones, pagers and similar sound-producing electronic devices : The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decision in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact Frank Darby by mail to Administrator, Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102-4689; by phone at 415 554 7724; by fax at 415 554 7854; or by email at sof@sfgov.org.

Citizens interested in obtaining a free copy of the Sunshine Ordinance can request a copy from Mr. Darby or by printing Chapter 67 of the San Francisco Administrative Code on the Internet, <http://www.sfgov.org/sunshine/>

Lobbyist Registration & Reporting Requirements

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance (SF Campaign & Governmental Conduct Code Sec. 2.100) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415 581-2300; fax (415 581-2317); web site: sfgov.org/ethics.


[sfgov](#) | [residents](#) | [business](#) | [government](#) | [visitors](#) | [online services](#) | [search](#)
[Home](#) >> [Sunshine Meeting Index](#) >> [Sunshine Ordinance Task Force](#)

Board of Supervisors

Sunshine Ordinance Task Force

June 27, 2006

SUNSHINE ORDINANCE TASK FORCE

MINUTES

Tuesday, June 27, 2006

4:00 p.m., City Hall, Room 408

Task Force Members

Seat 1	Erica Craven (Vice Chair)	Seat 8	Bruce Wolfe
Seat 2	Richard Knee	Seat 9	Hanley Chan
Seat 3	Sue Cauthen	Seat 10	Nick Mueller
Seat 4	Pueng Vongs	Seat 11	Marjorie Ann Williams
Seat 5	Kristin Chu		
Seat 6	Doug Comstock (Chair)	Ex-officio	Gloria Young
Seat 7	David Pilpel	Ex-officio	Vacant

DOCUMENTS DEPT.

MAR 13 2007

SAN FRANCISCO
PUBLIC LIBRARY

Note: Each item on the Agenda may include minutes, department or agency letters and reports; Task Force reports; and public correspondence. These items will be available for review at City Hall, Sunshine Ordinance Task Force, Room 244.

Call to Order The meeting called to order at 4:00 p.m.

Roll Call Present: Craven, Knee, Cauthen, Comstock, Wolfe, Chan, Mueller, Williams (Arrived at 4:11 p.m.)
Excused: Vongs, Chu, Pilpel

Agenda Changes: Item 1 was heard after Item 2, and item 3 was heard after item 4

Deputy City Attorney: Ernie Llorente

Administrator: Frank Darby

1. Approval of minutes of May 23, 2006. (action item) (5 minutes) (attachment)

Speakers: None

Motion to approve minutes of May 9, 2006. (Cauthen / Wolfe)

Ayes: Craven, Knee, Cauthen, Comstock, Wolfe, Chan, Mueller, Williams

Excused: Vongs, Chu, Pilpel

2. Report from Complaint Committee meeting of March 14, 2006.

Member Cauthen made the report.

- 06002 Recommendation to accept jurisdiction of complaint filed by Bob Kaufman against the City Attorneys Office for alleged incomplete production of records and non-disclosure of redacted information.

Speakers: None

Motion to accept jurisdiction. (Cauthen / Mueller)

Ayes: Craven, Knee, Cauthen, Comstock, Wolfe, Chan, Mueller

Excused: Vongs, Chu, Pilpel

Absent: Williams

- 06004 Recommendation to accept jurisdiction of complaint filed by Robert Planthold against the Municipal Transportation Agency for alleged incomplete production of documents, and failure to respond to an Immediate Disclosure Request in a timely manner.

Speakers: None

Motion to accept jurisdiction. (Cauthen / Craven)

Ayes: Craven, Knee, Cauthen, Comstock, Wolfe, Chan, Mueller, Williams

Excused: Vongs, Chu, Pilpel

3. 06002 Public Hearing, complaint filed by Bob Kaufman against the City Attorneys Office for alleged incomplete production of records and non-disclosure of redacted information.

Speaker: Machaela Hctor, Deputy City Attorney, City Attorney's Office

Motion to dismiss finding no violation (Craven / Knee)

Ayes: Craven, Knee, Cauthen, Comstock, Wolfe, Chan, Mueller, Williams

Excused: Vongs, Chu, Pilpel

4. 06004 Public Hearing, complaint filed by Robert Planthold against the Municipal Transportation Agency for alleged incomplete production of documents, and failure to respond to an Immediate Disclosure Request in a timely manner.

Member Cauthen indicated that she is a member of the MTA Citizens Advisory Council and that she would be fair and impartial.

Member Wolfe indicated that he serves on the Coalition for Transit Justice with Mr. Planthold and that he would be fair and impartial.

Speakers: Robert Planthold, Complainant; Diana Hammons, Acting Director, External Affairs Division, Municipal Transportation Agency; Lewis Dillon says the CCSF consistently violates the Sunshine Ordinance by conducting meetings inappropriately and delaying or changing the order of public comment; Lurilla Harris would like the MTA to provide dates indicating when Sunshine Ordinance training will be provided to their staff, including when and where training will occur.

Motion finding a violation of Sections 67.21 and 67.25 of the Sunshine Ordinance against the Municipal Transportation Agency for failure to respond in a timely manner, to respond on a rolling basis, and to adequately address the request. (Craven / Wolfe)

Ayes: Craven, Knee, Cauthen, Comstock, Wolfe, Chan, Mueller, Williams

Excused: Vongs, Chu, Pilpel

The Task Force commends the Municipal Transportation Agency for taking responsibility and acknowledging its failure to properly respond to Mr. Planthold's request, and for the Municipal Transportation Agency's stated commitment to improve their internal procedures in order to fully comply with public records requests.

The Task Force looks forward to the written plan for compliance with Sunshine Ordinance requests, in addition the Task Force requests that the Municipal Transportation Agency after consultation with its attorney release all draft documents requested by Mr. Planthold after the recommendations of the author have been redacted.

The Compliance and Amendments Committee will follow up on the measures being proposed by the Municipal Transportation Agency.

5. Discussion re: How to make the self-tutorial (streaming video) more accessible to individuals who missed the required annual Sunshine and Ethics training.

Referred to the Education, Outreach and Training Committee for review of the source of the Self-Assessment Tool, and to report back to the Task Force at the July 27, meeting.

Continued without objection.

6. Review of Ethics Commission Draft Statement of Incompatible Activities

Speakers: Oliver Luby expressed concern regarding the timing of the statement and the language being so broad that it can prevent individuals from requesting records or filing a complaint.

After some discussion and concerns expressed by the Task Force this item was continued without objection.

Chair Comstock will write a letter expressing the Task Forces concerns and request that they confer with the Sunshine Ordinance Task Force before their next draft is written, and that they factor in Section 67.36 of the Sunshine Ordinance.

7. Discussion re: Should the Task Force, through the Chair, write a letter to the Recreation and Park Commission to inquire about their absence of minutes.

Speakers: None

Chair Comstock will write a letter of inquiry to the Recreation and Park Commission.

8. Report re: Task Force By-laws, including consideration of changes to reflect the current operating procedure as it pertains to minutes.

Speakers: None

Chair Comstock submitted a sample of a Speaker Card. After some discussion by the Task Force, Chair Comstock will revise the draft and provide it at the next meeting.

Continued without objection.

9. Report re: Draft Sunshine Ordinance Task Force 2005 Annual Report

Speakers: None

Continued without objection.

10. Report from the Compliance and Amendments Committee: meeting of June 12, 2006.

Speakers: None

Member Knee made the report.

Chair Comstock indicated that due to time constraints the Full Task Force will begin reviewing Sections 67.1 – 67.17 of the proposed amendments of the Ordinance at the next Task Force meeting.

11. Report from Education, Outreach and Training Committee: meeting of June 8, 2006.

Speakers: None

Member Williams and Wolfe made the report.

Chair Comstock asked the Administrator to notify the Task Force of the status of the budget process.

12. Administrator's Report.

Speakers: None

The Administrator made the report.

13. Public comment for items not listed on the agenda. Public comment to be held at 5:00 p.m., or as soon thereafter as possible.

Speakers: None

14. Announcements, questions, and future agenda items from the Task Force.

Speakers: None

Chair Comstock indicated that he will write letters to the following:

- Mark Leno in support of AB2927.
- Mayor Newsom re: providing an Ex-officio member to the Task Force.
- Recreation & Park Commission to inquire about their absence of minutes.
- Ethics Commission expressing the Task Forces concerns regarding their Draft Statement of Incompatible Activities.

Member Wolfe expressed his desire that the Task Force discuss the violation by the Mayor by not allowing public comment at the meeting of the Disaster Council.

Adjournment The meeting was adjourned at 6:47 p.m.

This meeting has been audio recorded and is on file in the Office of the Sunshine Ordinance Task Force. Note: A technical error occurred during the meeting – parts of items 3, 4, and 5 (tape 1) were recorded over.

Sunshine Ordinance Task Force



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-7724
Fax No. 554-7854
TDD/TTY No. 544-5227

<http://www.sfgov.org/sunshine/>

**SUNSHINE ORDINANCE TASK FORCE
AGENDA**

Tuesday, July 25, 2006
4:00 p.m., City Hall, Room 408

DOCUMENTS DEPT.

JUL 20 2006

SAN FRANCISCO
PUBLIC LIBRARY

Task Force Members

Seat 1	Erica Craven (Vice Chair)	Seat 8	Bruce Wolfe
Seat 2	Richard Knee	Seat 9	Hanley Chan
Seat 3	Sue Cauthen	Seat 10	Nick Mueller
Seat 4	Pueng Vongs	Seat 11	Marjorie Ann Williams
Seat 5	Kristin Chu		
Seat 6	Doug Comstock (Chair)	Ex-officio	Gloria Young
Seat 7	David Pilpel	Ex-officio	Vacant

Note: Each item on the Agenda may include minutes, department or agency letters and reports; Task Force reports; and public correspondence. These items will be available for review at City Hall, Sunshine Ordinance Task Force, Room 244.

Call to Order

Roll Call

Agenda Changes

1. Approval of minutes of June 27, 2006. (action item) (5 minutes) (attachment)
 2. 06003 Recommendation from the Compliance and Amendments Committee that the May 23, 2006 Order of Determination of John Avalos, on behalf of Supervisor Chris Daly vs. Mayors Office of Communications be referred for formal investigation and possible action by the following entities: Ethics Commission, California Attorney General's Office, San Francisco District Attorney, or Board of Supervisors. as the Task Force deems appropriate. (action item) (attachment)
 3. Report from Complaint Committee meeting of July 11, 2006. (Sue Cauthen) (action item) (5 min) (attachment)
- 06005 Recommendation to accept jurisdiction of complaint filed by Kimo Crossman against Mayor Newsom for alleged failure to allow public comment during the June 5, 2006 meeting of the Disaster Council.
- 06006 Recommendation to accept jurisdiction of complaint filed by Kimo Crossman against the Department of Telecommunications and Information Services for alleged failure to provide records, and failure to respond in a timely manner.

4. 06005 Public Hearing, complaint filed by Kimo Crossman against Mayor Newsom for alleged failure to allow public comment during the June 5, 2006 meeting of the Disaster Council. (discussion and possible action) (30 minutes) (attachment)
5. 06006 Public Hearing, complaint filed by Kimo Crossman against the Department of Telecommunications and Information Services for alleged failure to provide records, and failure to respond in a timely manner. (discussion and possible action) (30 minutes) (attachment)
6. Continued discussion re: How to make the self-tutorial (streaming video) more accessible to individuals who missed the required annual Sunshine and Ethics training. (discussion and possible action) (15 minutes) (no attachment)
7. Continued review of Ethics Commission Draft Statement of Incompatible Activities (discussion and possible action) (15 minutes) (attachment)
8. Report re: Task Force By-laws, including consideration of changes to reflect the current operating procedure as it pertains to minutes? (David Pilpel) (discussion and possible action) (5 minutes) (no attachment)
9. Report re: Draft Sunshine Ordinance Task Force 2005 Annual Report (David Pilpel) (discussion and possible action) (5 minutes) (no attachment)
10. Report from the Compliance and Amendments Committee: meeting of July 10, 2006. (Richard Knee). (discussion and possible action) (5 min) (attachment)
11. Report from Education, Outreach and Training Committee: (David Pilpel) (discussion) (5 min) (no attachment)
12. Administrator's Report. (no action item) (5 minutes) (attachment)
13. Public comment for items not listed on the agenda. Public comment to be held at 5:00 p.m., or as soon thereafter as possible. (no action item) (12 min) (no attachment)
14. Announcements, questions, and future agenda items from the Task Force. (no action item) (5 min) (no attachment)

Adjournment

Next Regular Meeting August 22, 2006

**THE AGENDA PACKET IS AVAILABLE FOR REVIEW
MONDAY THROUGH FRIDAY AT CITY HALL, ROOM 244**

SUNSHINE ORDINANCE TASK FORCE HEARING PROCEDURES

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations. Any person speaking during a public comment period may supply a brief written summary of their comments, which shall, if no more than 150 words, be included in the minutes. (Section 67.16)

Each member of the public who is unable to attend the public meeting or hearing may submit to the City, by the time the proceeding begins, written comments regarding the subject of the meeting or hearing; these comments will be made a part of the official public record. (Section 67.7-1 (c))

- | | |
|--|----------------------|
| 1. Complainant presents his/her facts and evidence | 5 minutes |
| Other parties present facts and evidence | Up to 3 minutes each |
| 2. City responds | 5 minutes |
| Other parties of City respond | Up to 3 minutes each |

Above total speaking time for Complainant and City to be the same

- | | |
|---|----------------------|
| 3. Complainant presents rebuttal | 3 minutes |
| 4. Public comment
(Excluding Complainant & City response, witnesses) | Up to 3 minutes each |
| 5. Matter is with the Task Force for discussion and deliberation | |
| 6. Vote by Task Force | |

Note: Time must be adhered to, if a speaker is interrupted by questions, the interruption does not count against his/her time.

Disability Access: The hearing room is wheelchair accessible.

Chemical-Based Products: In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals.

Cell phones, pagers and similar sound-producing electronic devices : The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decision in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact Frank Darby by mail to Administrator, Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102-4689; by phone at 415 554 7724; by fax at 415 554 7854; or by email at soft@sfgov.org.

Citizens interested in obtaining a free copy of the Sunshine Ordinance can request a copy from Mr. Darby or by printing Chapter 67 of the San Francisco Administrative Code on the Internet, <http://www.sfgov.org/sunshine/>

Lobbyist Registration & Reporting Requirements

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance (SF Campaign & Governmental Conduct Code Sec. 2.100) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415 581-2300; fax (415 581-2317); web site: sfgov.org/ethics.


[sfgov](#) | [residents](#) | [business](#) | [government](#) | [visitors](#) | [online services](#) | [search](#)
[Home](#) >> [Sunshine Meeting Index](#) >> [Sunshine Ordinance Task Force](#)

Board of Supervisors

Sunshine Ordinance Task Force

July 25, 2006

SUNSHINE ORDINANCE TASK FORCE

MINUTES

Tuesday, July 25, 2006

4:00 p.m., City Hall, Room 408

Task Force Members

Seat 1	Erica Craven (Vice Chair)	Seat 8	Bruce Wolfe
Seat 2	Richard Knee	Seat 9	Hanley Chan
Seat 3	Sue Cauthen	Seat 10	Nick Goldman
Seat 4	Pueng Vongs	Seat 11	Marjorie Ann Williams
Seat 5	Kristin Chu		
Seat 6	Doug Comstock (Chair)	Ex-officio	Gloria Young
Seat 7	David Pilpel	Ex-officio	Vacant

DOCUMENTS DEPT.

MAR 13 2007

SAN FRANCISCO
PUBLIC LIBRARY

Call to Order The meeting called to order at 4:10 p.m.

Roll Call Present: Craven, Knee, Cauthen, Vongs,
Comstock, Pilpel (arrived at 4:14), Wolfe, Chan,
Goldman,
Excused: Chu
Absent: Williams

Agenda Changes: Item 13 was heard after item number 2

Deputy City Attorney: Ernie Llorente

Administrator: Frank Darby

1. Approval of minutes of June 27, 2006.

Speakers: Peter Warfield pleased to see more summary minutes but item #3 doesn't have sufficient summary of the speakers as item #4 does.

Motion to approve minutes of June 27, 2006. (Wolfe / Cauthen)

Ayes: Craven, Knee, Cauthen, Vongs, Comstock, Pilpel, Wolfe, Chan, Goldman

Excused: Chu; Absent: Williams

The Chair, by consensus of the Task Force, asked the Administrator to identify excused members as either excused absent or excused present when Orders of Determinations are made regarding a complaint.

2. 06003 Recommendation from the Compliance and Amendments Committee that the May 23, 2006 Order of Determination of John Avalos, on behalf of Supervisor Chris Daly vs. Mayors Office of Communications be referred for formal investigation and possible action by the following entities: Ethics Commission, California Attorney General's Office, San Francisco District Attorney, or Board of Supervisors. as the Task Force deems appropriate.

Speakers: Jennifer Petrucione, Mayors Office of Communication explained that the omitted documents are drafts of staff recommendations and are not subject to disclosure. Supervisor Chris Daly asked the Task Force to again order the disclosure of the documents by the Mayors Office before moving to further action.

Kimo Crossman said that the documents are public record and recommends referral to the Ethics Commission.

Peter Warfield says there is a right to inspection since there is a presumption that the records are public.

Allen Grossman said parts of the documents should be produced at least in redacted form.

Motion to refer to the Ethics Commission for formal investigation subject to records not being provided by the Mayor's Office of Communications. The Task Force further requests that the Mayors Office of Communications provide the documents to Supervisor Chris Daly in redacted form if redaction is necessary. (Knee / Comstock)

Ayes: Craven, Knee, Cauthen, Vongs, Comstock, Wolfe, Chan, Goldman

Noes: Pilpel

Absent: Williams

Excused Absent: Chu

3. Report from Complaint Committee meeting of March 14, 2006.

Member Cauthen made the report.

- 06005 Recommendation to accept jurisdiction of complaint filed by Kimo Crossman against Mayor Newsom for alleged failure to allow public

comment during the June 5, 2006 meeting of the Disaster Council.

Speakers: None

Motion to accept jurisdiction. (Cauthen / Wolfe)

Ayes: Craven, Knee, Cauthen, Vongs, Comstock, Pilpel, Wolfe, Chan, Goldman,

Excused: Chu

Absent: Williams

06006 Recommendation to accept jurisdiction of complaint filed by Kimo Crossman against the Department of Telecommunications and Information Services for alleged failure to provide records, and failure to respond in a timely manner.

Speakers: None

Motion to accept jurisdiction. (Cauthen / Goldman)

Ayes: Craven, Knee, Cauthen, Vongs, Comstock, Pilpel, Wolfe, Chan, Goldman

Excused: Chu

Absent: Williams

4 06005 Public Hearing, complaint filed by Kimo Crossman against Mayor Newsom for alleged failure to allow public comment during the June 5, 2006 meeting of the Disaster Council.

Speakers: Kimo Crossman, Complainant; Jennifer Petrucione, Mayor's Office of Communication

Motion to read a letter provided to the Task Force during the meeting by Jennifer Petrucione (Comstock / Knee)

Ayes: Craven, Knee, Cauthen, Vongs, Comstock, Pilpel, Chan, Goldman

Noes: Wolfe

Excused: Chu

Absent: Williams

Motion finding that the Mayor's Disaster Council violated Section 67.15 (a), (b), and (c) of the Sunshine Ordinance, and we hope and expect that it won't happen in the future. (Craven / Knee)

Ayes: Craven, Knee, Cauthen, Vongs, Comstock, Wolfe, Goldman

Noes: Pilpel, Chan

Excused: Chu

Absent: Williams

5. 06006 Public Hearing, complaint filed by Kimo Crossman against the Department of Telecommunications and Information Services for alleged failure to provide records, and failure to respond in a timely manner.

Member Wolfe indicated that he attended several hearings on the Wi Fi subject as an individual and feels that he can be fair and impartial.

Speakers: Kimo Crossman, Complainant; Ron Vinson, Chief Administrative Officer, Department of Telecommunications and Information Services

During questioning by Member Pilpel of the respondent, Chair Comstock ruled that his questions regarding the number of requests filed by a complainant were inappropriate to the merits of the case and he would not allow such questioning. Member Pilpel expressed that he was being denied the opportunity to ask questions that would inform his vote and didn't believe that he could make a proper determination. Member Pilpel moved to overrule the Chair but there was no second.

Motion finding a violation of Section 67.21 and 67.25 for failure to respond to the IDR and failure to respond to the request in a timely manner. (Craven / Wolfe)

Ayes: Craven, Knee, Cauthen, Vongs, Comstock, Wolfe, Goldman,

Noes: Pilpel

Absent: Williams

Excused Absent: Chu, Chan

6. Continued discussion re: How to make the self-tutorial (streaming video) more accessible to individuals who missed the required annual Sunshine and Ethics training.

Speaker: Kimo Crossman indicated that a DVD would be a solution to the problem. John St. Croix spoke on efforts being made to solve the problems.

Member Pilpel, by consensus of the Task Force moved that a letter be written to the City Attorney and the Department of Telecommunications suggesting that they consider other methods, such as DVD, for making the self tutorial and other material easily available for users experiencing difficult accessing the streaming video.

7. Continued review of Ethics Commission Draft Statement of Incompatible Activities (SIA)

Speakers: John St. Croix discussed various sections and the status of

the Ethics Commission's (EC) SIA, and that the EC postponed its approval so that they can consider comments by the Task Force.

Kimo Crossman expressed disapproval with the current language of the SIA.

Chair Comstock, by consensus of the Task Force, stated that he will submit proposed language changes to the Ethics Commission regarding the SIA for consideration at their August 8 meeting. He asked Task Force members and the public to submit their suggestions/comments to him as soon as possible.

8. Report re: Task Force By-laws, including consideration of changes to reflect the current operating procedure as it pertains to minutes.

Speakers: Kimo Crossman is concerned that the speaker card does not allow descriptive minutes.

Chair Comstock submitted a revised Speaker Card for use at Task Force meetings.

Item #8 referred to the Rules Committee without objection.

9. Report re: Draft Sunshine Ordinance Task Force 2005 Annual Report

Speakers: None

Continued without objection.

10. Report from the Compliance and Amendments Committee: meeting of July 10, 2006.

Speakers: Kimo Crossman suggest that the a projector and screen be provided so that the public can follow proposed amendments.

Member Knee made the report. He informed the Task Force that the Committee does not have enough time to complete the review of the ordinance and/or submit proposed amendments for the November election.

11. Report from Education, Outreach and Training Committee.

Speakers: None

Member Pilpel reported that the July meeting was cancelled.

12. Administrator's Report.

Speakers: Kimo Crossman would like the public review file brought to the meeting for public inspection, rather than review in the Clerk's Office.

The Administrator made the report.

Chair Comstock, by consensus of the Task Force, asked the Administrator to include language on the Communications Received

Log that indicates where the public can review the correspondence.

13. Public comment for items not listed on the agenda. Public comment to be held at 5:00 p.m., or as soon thereafter as possible.

Speakers: Peter Warfield commented on the importance and value of good and complete minutes, and cited sections 67.15 and 67.16 of the ordinance.

Kimo Crossman said that he'll defer his comments regarding minutes until item #8.

Allen Grossman stated that the City Attorney should not control meetings.

14. Announcements, questions, and future agenda items from the Task Force.

Speakers: Kimo Crossman asked for confirmation that Order of Determination letters will be sent out regarding his two complaints.

Member Pilpel expressed concern about the political animosity and attacks coming before the Task Force. He also reported that he asked the BOS Rules Committee to allow the Task Force to review the Teleconference measure before their approval, however they submitted it for the November ballot.

Adjournment

The meeting was adjourned at 8:22 p.m.

This meeting has been audio recorded and is on file in the Office of the Sunshine Ordinance Task Force.



**SUNSHINE ORDINANCE TASK FORCE
AGENDA**

Tuesday, August 22, 2006
4:00 p.m., City Hall, Room 408

Task Force Members

Seat 1 Erica Craven (Vice Chair)	Seat 8 Bruce Wolfe
Seat 2 Richard Knee	Seat 9 Hanley Chan
Seat 3 Sue Cauthen	Seat 10 Nick Goldman
Seat 4 Pueng Vongs	Seat 11 Marjorie Ann Williams
Seat 5 Kristin Chu	
Seat 6 Doug Comstock (Chair)	Ex-officio Gloria Young
Seat 7 David Pilpel	Ex-officio Vacant

DOCUMENTS DEPT

AUG 16 2006

SAN FRANCISCO
PUBLIC LIBRARY

Note: Each item on the Agenda may include minutes, department or agency letters and reports; Task Force reports; and public correspondence. These items will be available for review at City Hall, Sunshine Ordinance Task Force, Room 244.

Call to Order

Roll Call

Agenda Changes

1. Approval of minutes of July 25, 2006. (action item) (5 minutes) (attachment)
2. Report from Complaint Committee meeting of August 8, 2006. (Sue Cauthen) (action item) (10 min) (attachment)
 - 06007 Recommendation to accept jurisdiction of complaint filed by Javier Gonzalez against the City Attorney's Office for alleged failure to produce documents relating to an investigative report.
 - 06011 Recommendation to accept jurisdiction of complaint filed by Beth Rimbey against the Office of Emergency Services and the Mayors Office of Communications for alleged failure to produce documents, incomplete production of documents, unnecessary redactions, and untimely response.
3. 06007 Public Hearing, complaint filed by Javier Gonzalez against the City Attorney's Office for alleged failure to produce documents relating to an investigative report. (discussion and possible action) (30 minutes) (attachment)
4. 06011 Public Hearing, complaint filed by Beth Rimbey against the Office of Emergency Services and the Mayors Office of Communications for alleged

failure to produce documents, incomplete production of documents, unnecessary redactions, and untimely response. (discussion and possible action) (30 minutes) (attachment)

5. Report from the Chair (discussion and possible action) (15 minutes) (attachment)
 - a. Ethics Commission Draft Statement of Incompatible Activities
 - b. City College and Sunshine.
6. Continued report re: Draft Sunshine Ordinance Task Force 2005 Annual Report (David Pilpel) (discussion and possible action) (5 minutes) (no attachment)
7. Report from the Compliance and Amendments Committee: meeting of August 14, 2006. (Richard Knee). (discussion and possible action) (5 min) (attachment)
8. Report from Education, Outreach and Training Committee. (David Pilpel) (discussion) (5 min) (no attachment)
9. Administrator's Report. (no action item) (5 minutes) (no attachment)
10. Public comment for items not listed on the agenda. Public comment to be held at 5:00 p.m., or as soon thereafter as possible. (no action item) (12 min) (no attachment)
11. Announcements, questions, and future agenda items from the Task Force. (no action item) (5 min) (no attachment)

Adjournment

Next Regular Meeting September 26, 2006

SUNSHINE ORDINANCE TASK FORCE HEARING PROCEDURES

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations. Any person speaking during a public comment period may supply a brief written summary of their comments, which shall, if no more than 150 words, be included in the minutes. (Section 67.16)

Each member of the public who is unable to attend the public meeting or hearing may submit to the City, by the time the proceeding begins, written comments regarding the subject of the meeting or hearing; these comments will be made a part of the official public record. (Section 67.7-1 (c))

- | | | |
|--|---|----------------------|
| 1. | Complainant presents his/her facts and evidence | 5 minutes |
| | Other parties present facts and evidence | Up to 3 minutes each |
| 2. | City responds | 5 minutes |
| | Other parties of City respond | Up to 3 minutes each |
| Above total speaking time for Complainant and City to be the same | | |
| 3. | Complainant presents rebuttal | 3 minutes |
| 4. | Public comment | Up to 3 minutes each |
| | (Excluding Complainant & City response, witnesses) | |
| 5. | Matter is with the Task Force for discussion and deliberation | |
| 6. | Vote by Task Force | |

Note: Time must be adhered to, if a speaker is interrupted by questions, the interruption does not count against his/her time.

Disability Access: The hearing room is wheelchair accessible.

Chemical-Based Products: In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals.

Cell phones, pagers and similar sound-producing electronic devices : The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decision in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact Frank Darby by mail to Administrator, Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102-4689; by phone at 415 554 7724; by fax at 415 554 7854; or by email at sotf@sfgov.org.

Citizens interested in obtaining a free copy of the Sunshine Ordinance can request a copy from Mr. Darby or by printing Chapter 67 of the San Francisco Administrative Code on the Internet, <http://www.sfgov.org/sunshine/>

Lobbyist Registration & Reporting Requirements

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance (SF Campaign & Governmental Conduct Code Sec. 2.100) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415 581-2300; fax (415 581-2317); web site: sfgov.org/ethics.



Board of Supervisors

Sunshine Ordinance Task Force

August 22, 2006

SUNSHINE ORDINANCE TASK FORCE

MINUTES

Tuesday, August 22, 2006

4:00 p.m., City Hall, Room 408

Task Force Members

Seat 1	Erica Craven (Vice Chair)	Seat 8	Bruce Wolfe
Seat 2	Richard Knee	Seat 9	Hanley Chan
Seat 3	Sue Cauthen	Seat 10	Nick Goldman
Seat 4	Pueng Vongs	Seat 11	Marjorie Ann Williams
Seat 5	Kristin Chu		
Seat 6	Doug Comstock (Chair)	Ex-officio	Gloria Young
Seat 7	David Pilpel	Ex-officio	Vacant

DOCUMENTS DEPT.

MAR 13 2007

SAN FRANCISCO
PUBLIC LIBRARY

Call to Order The meeting called to order at 4:04 p.m.

Roll Call Present: Craven, Knee, Cauthen, Vongs, Chu,
Comstock, Pilpel, Chan, Goldman, Williams
Excused: Wolfe

Agenda Changes: Item #10 was heard after the discussions on item #3

Deputy City Attorney: Ernie Llorente

Administrator: Frank Darby

1. Approval of minutes of July 25, 2006.

Speakers: Peter Warfield expressed that the minutes under item 13 were "very bad" and needed to be fixed. He asked the Task Force to consider reflecting what he actually said, and that of Kimo Crossman, and that a sentence that he provided about what the City Attorney said, be included.

Allen Grossman stated that after hearing the comment made by Mr. Pilpel regarding the tapes and minutes being adequate that he wondered, "if we were at the same meeting."

Chair Comstock asked Mr. Warfield to provide his comments to the Administrator in writing.

Postponed to the next meeting without objection.

Chair Comstock asked the Administrator to make whatever changes to the minutes deemed necessary.

2. Report from Complaint Committee meeting of August 8, 2006.

Member Cauthen introduced a new Committee procedure to help provide some guidance to the Task Force in the drafting of Orders of Determinations.

Member Cauthen made the report regarding the Gonzalez complaint.

06007 Recommendation to accept jurisdiction of complaint filed by Javier Gonzalez against the City Attorney's Office for alleged failure to produce documents relating to an investigative report.

Speakers: Paul Zarefsky, Deputy City Attorney, City Attorney's Office

Peter Warfield said that the memo by Member Cauthen helps clarify the issues and identify the legal citation relevant to the complaint. Suggested additions to the letter with regards to File #06011_Rimbey v. OES/MOC.

Motion to accept jurisdiction. (Cauthen / Goldman)

Ayes: Craven, Knee, Cauthen, Vongs, Chu, Comstock, Pilpel, Chan, Goldman, Williams

Excused Absent: Wolfe

06011 Recommendation to accept jurisdiction of complaint filed by Beth Rimbey against the Office of Emergency Services and the Mayors Office of Communications for alleged failure to produce documents, incomplete production of documents, unnecessary redactions, and untimely response.

Continued by agreement of both parties prior to the meeting.

3. 06007 Public Hearing, complaint filed by Javier Gonzalez against the City Attorney's Office for alleged failure to produce documents relating to an investigative report.

Speakers: Paul Zarefsky, Deputy City Attorney, City Attorney's Office, asked the Task Force to dismiss the complaint for lack of prosecution.

Allen Grossman said that if the City Attorney is not functioning as a lawyer then the document is not privileged.

Lurilla Harris stated that the Task Force was listening to "waffle and squirm."

Peter Warfield stated that it was not clear who the complaint is against, however there is no written justification for withholding to Mr. Gonzalez, pursuant to sections 67.26 and 67.27.

The Task Force, by consensus, agreed to hear the merits of the complaint in the absence of the Complainant after discussing the matter, and hearing public testimony.

Deputy City Attorney Paul Zarefsky informed the Task Force that except for Mr. Gonzalez's complaint the documents in their files are privileged, and that the Sheriff holds the privilege.

Motion finding no violation (Goldman / Pilpel)

Ayes: Craven, Knee, Cauthen, Vongs, Chu, Comstock, Pilpel, Chan, Goldman, Williams

Excused Absent: Wolfe

The Task Force also noted the following:

- Evaluation of claims may necessarily involve creating or sharing documents subject to the attorney-client privilege;
- The City Attorney is encouraged to explain further to a requestor who holds the privilege when records are withheld based on the attorney-client privilege;
- The Complainant, Mr. Gonzalez, may wish to seek legal advice to explain further the situation at issue;
- The Sheriff's Department may have non-privileged responsive documents in this matter; the Complainant, Mr. Gonzalez is reminded that he may request such documents directly from the Sheriff; and
- The complainant, Mr. Gonzalez may seek a rehearing before the Sunshine Ordinance Task Force; a copy of the Task Force's Complaint Procedures are attached to this Order.

4. 06011 Public Hearing, complaint filed by Beth Rimbey against the Office of Emergency Services and the Mayors Office of Communications for alleged failure to produce documents, incomplete production of documents, unnecessary redactions, and untimely response.

Continued by agreement of both parties prior to the meeting.

5. Report from the Chair

- a. Ethics Commission Draft Statement of Incompatible Activities
- b. City College and Sunshine.

Chair Comstock reported that he wrote a letter to the Ethics Commission recommending changes to their SIA, most of which were accepted and added to the template.

Chair Comstock reported that he is confident that City College Board members in favor of a Sunshine Policy are now in a majority, and will adopt a Sunshine policy similar to the policy adopted by the Redevelopment Agency. He encouraged Member Pipel to hold a meeting of the City College Ad Hoc Committee, and to help draft a Sunshine policy for City College that mirrors the one used by the Redevelopment Agency.

Member Pipel reported that the San Francisco Unified School District meetings are now being televised, however it is not a live broadcast.

Member Chan expressed his interest in serving on the City College Ad Hoc Committee

Speakers: None

6. Continued report re: Draft Sunshine Ordinance Task Force 2005 Annual Report

Member Pipel made the report, indicating that the report will be presented for adoption at the next meeting.

Speakers: Peter Warfield suggested that a status report be included in the Annual Report for complaints that have been forwarded to other bodies for further action. He would also like to know what follow-up steps have been taken.

Member Craven encouraged the resurrection of a log believed to be developed by the prior Administrator that tracked the status of Order's of Determinations that were referred for further action to other agencies.

7. Report from the Compliance and Amendments Committee: meeting of August 14, 2006.

Member Knee made the report.

Member Knee to write a letter to the Clerk of the Board, on behalf of the Compliance and Amendments Committee, requesting that a video projector and screen be provided for Committee meetings.

Speakers: Peter Warfield stated that a plan is needed for version control of the amendments that identifies when changes were made and who recommended them. He suggested that those experienced in Sunshine be invited to "just talk" without setting time limits.

8. Report from Education, Outreach and Training Committee.

Member Pipel made the report.

Member Pipel encouraged the Chair to write a letter regarding the Annual Sunshine Training video requesting that it be made available in alternative formats to facilitate trainees who may lack the required hardware and internet connections.

Speakers: None

9. Administrator's Report.

The Administrator made the report.

Speakers: Peter Warfield agrees with Member Cravens suggestion that the Administration provide a monthly follow-up on complaints that have been forwarded by the Task Force to other bodies for further action. Expressed concern about Member Pipel's statement that complaints can take up a lot of time. Urged that a letter be sent to the Clerk of the Board regarding need for a full time staff and a complaint filed should the letter "not work."

10. Public comment for items not listed on the agenda. Public comment to be held at 5:00 p.m., or as soon thereafter as possible.

Speakers: Peter Warfield alleged that Deputy City Attorney Llorente's presence and behavior is a handicap, is hostile to Sunshine, has been involved in violations, and has possible conflict of interest regarding library matters.

11. Announcements, questions, and future agenda items from the Task Force.

Speakers: None

Adjournment

The meeting was adjourned at 6:34 p.m.

This meeting has been audio recorded and is on file in the Office of the Sunshine Ordinance Task Force.

Sunshine Ordinance Task Force



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-7724
Fax No. 554-7854
TDD/TTY No. 544-5227

<http://www.sfgov.org/sunshine/>

**SUNSHINE ORDINANCE TASK FORCE
AGENDA**

Tuesday, September 26, 2006
4:00 p.m., City Hall, Room 408

DOCUMENTS DEPT.

SEP 21 2006

SAN FRANCISCO
PUBLIC LIBRARY

Task Force Members

Seat 1	Erica Craven (Vice Chair)	Seat 8	Bruce Wolfe
Seat 2	Richard Knee	Seat 9	Hanley Chan
Seat 3	Sue Cauthen	Seat 10	Nick Goldman
Seat 4	Pueng Vongs	Seat 11	Marjorie Ann Williams
Seat 5	Kristin Chu		
Seat 6	Doug Comstock (Chair)	Ex-officio	Gloria Young
Seat 7	David Pilpel	Ex-officio	Vacant

Note: Each item on the Agenda may include minutes, department or agency letters and reports; Task Force reports; and public correspondence. These items will be available for review at City Hall, Sunshine Ordinance Task Force, Room 244.

Call to Order; Roll Call; Agenda Changes

1. Approval of minutes of July 25, 2006 and August 22, 2006. (action item) (10 minutes) (attachment)
 2. Discussion re: Presentations by Zac Multrex on the general overview of metadata in electronic records; Paul Zarefsky, Deputy City Attorney on legal implications, and the Department of Telecommunications and Information Services on the Cities technical/operational issues. (no action item) (30 minutes) (attachment)
 3. Report from Complaint Committee meeting of August 8, 2006, and September 12, 2006. (Sue Cauthen) (action item) (10 min) (attachment)
- 06011 Recommendation to accept jurisdiction of complaint filed by Beth Rimbey against the Office of Emergency Services and the Mayors Office of Communications for alleged failure to produce documents, incomplete production of documents, unnecessary redaction's, and untimely response.
- 06013 Recommendation to accept jurisdiction of complaint filed by Kimo Crossman against the Office of the Clerk of the Board for alleged failure to provide public record in original Word format and failure to provide written justification for withholding.

- 06014 Recommendation to accept jurisdiction of complaint filed by Kimo Crossman against the Department of Telecommunications and Information Services for alleged failure to produce records and to provide in electronic format.
- 06015 Recommendation to accept jurisdiction of complaint filed by Allen Grossman against the Office of the Clerk of the Board and Sunshine Ordinance Task Force Administrator for alleged failure to provide public record in original Word format and failure to provide written justification for withholding.
- 4. 06011 Public Hearing, complaint filed by Beth Rimbey against the Office of Emergency Services and the Mayors Office of Communications for alleged failure to produce documents, incomplete production of documents, unnecessary redaction's, and untimely response. (discussion and possible action) (30 minutes) (attachment)
- 5. 06013 Public Hearing, complaint filed by Kimo Crossman against the Office of the Clerk of the Board for alleged failure to provide public record in original Word format and failure to provide written justification for withholding. (discussion and possible action) (30 minutes) (attachment)
- 6. 06014 Public Hearing, complaint filed by Kimo Crossman against the Department of Telecommunications and Information Services for alleged failure to produce records and to provide in electronic format. (discussion and possible action) (30 minutes) (attachment)
- 7. 06015 Public Hearing, complaint filed by Allen Grossman against the Office of the Clerk of the Board and Sunshine Ordinance Task Force Administrator for alleged failure to provide public record in original Word format and failure to provide written justification for withholding. (discussion and possible action) (30 minutes) (attachment)
- 8. Report: Compliance and Amendments Committee: meeting of September 11, 2006. (Richard Knee). (discussion and possible action) (5 min) (attachment)
- 9. 06004 The Compliance and Amendments Committee (CAC) has returned the June 27, 2006 Order of Determination of Robert Planthold vs Municipal Transportation Agency (MTA) for further action because the CAC has found non compliance with the order by the MTA. (discussion and possible action) (10 min) (attachment)
- 10. Report: Education, Outreach and Training Committee. (David Pilpel) (discussion and possible action) (5 min) (no attachment)
- 11. Continued report re: Draft Sunshine Ordinance Task Force 2005 Annual Report (David Pilpel) (discussion and possible action) (5 minutes) (attachment)
- 12. E-mail Policy of the Sunshine Ordinance Task Force (discussion and possible action) (30 minutes) (attachment)
- 13. City College Sunshine Proposal (discussion and possible action) (30 minutes) (attachment)

14. Administrator's Report. (no action item) (5 minutes) (attachment)
15. Public comment for items not listed on the agenda. Public comment to be held at 5:00 p.m., or as soon thereafter as possible. (no action item) (12 min)
16. Announcements, questions, and future agenda items from the Task Force. (no action item) (5 min) (no attachment)

Adjournment

Next Regular Meeting October 24, 2006

SUNSHINE ORDINANCE TASK FORCE HEARING PROCEDURES

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations. Any person speaking during a public comment period may supply a brief written summary of their comments, which shall, if no more than 150 words, be included in the minutes. (Section 67.16)

Each member of the public who is unable to attend the public meeting or hearing may submit to the City, by the time the proceeding begins, written comments regarding the subject of the meeting or hearing; these comments will be made a part of the official public record. (Section 67.7-1 (c))

- | | |
|--|----------------------|
| 1. Complainant presents his/her facts and evidence | 5 minutes |
| 2. Other parties present facts and evidence | Up to 3 minutes each |
| 3. City responds | 5 minutes |
| 4. Other parties of City respond | Up to 3 minutes each |

Above total speaking time for Complainant and City to be the same

- | | |
|---|----------------------|
| 3. Complainant presents rebuttal | 3 minutes |
| 4. Public comment
(Excluding Complainant & City response, witnesses) | Up to 3 minutes each |
| 5. Matter is with the Task Force for discussion and deliberation | |
| 6. Vote by Task Force | |

Note: Time must be adhered to, if a speaker is interrupted by questions, the interruption does not count against his/her time.

Disability Access: The hearing room is wheelchair accessible.

Chemical-Based Products: In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals.

Cell phones, pagers and similar sound-producing electronic devices : The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decision in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact Frank Darby by mail to Administrator, Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102-4689; by phone at 415 554 7724; by fax at 415 554 7854; or by email at sotf@sfgov.org.

Citizens interested in obtaining a free copy of the Sunshine Ordinance can request a copy from Mr. Darby or by printing Chapter 67 of the San Francisco Administrative Code on the Internet, <http://www.sfgov.org/sunshine/>

Lobbyist Registration & Reporting Requirements

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance (SF Campaign & Governmental Conduct Code Sec. 2.100) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415 581-2300; fax (415 581-2317); web site: sfgov.org/ethics.


[sfgov](#) | [residents](#) | [business](#) | [government](#) | [visitors](#) | [online services](#) | [search](#)
[Home](#) >> [Sunshine Meeting Index](#) >> [Sunshine Ordinance Task Force](#)

Board of Supervisors

Sunshine Ordinance Task Force

September 26, 2006

SUNSHINE ORDINANCE TASK FORCE

MINUTES

Tuesday, September 26, 2006

4:00 p.m., City Hall, Room 408

Task Force Members

Seat 1	Erica Craven (Vice Chair)	Seat 8	Bruce Wolfe
Seat 2	Richard Knee	Seat 9	Hanley Chan
Seat 3	Sue Cauthen	Seat 10	Nick Goldman
Seat 4	Pueng Vongs	Seat 11	Marjorie Ann Williams
Seat 5	Kristin Chu		
Seat 6	Doug Comstock (Chair)	Ex-officio	Gloria Young
Seat 7	David Pilpel	Ex-officio	Vacant

DOCUMENTS DEPT.

MAR 13 2007

SAN FRANCISCO
PUBLIC LIBRARY

Call to Order The meeting called to order at 4:05 p.m.

Roll Call Present: Craven, Knee, Cauthen, Vongs, Chu,
Comstock, Pilpel (arrived at 4:08), Wolfe, Goldman,
Williams

Excused: Chan

Agenda Changes: Item #15 was heard after item #2, item #9 was heard after item #4, item #5 was heard after item #7 and item #7 was heard after #9

Deputy City Attorney: Ernie Llorente

Administrator: Frank Darby

Agenda Changes:

Speakers:

- Allen Grossman asked, as a point of order that item #2 be

removed from the agenda since at the August Task Force meeting, the item was not requested for consideration, as per Section 6 of the Task Force's By-Laws.

- Peter Warfield said the chair should make up the agenda, and supports the motion by Member Wolfe. That a complainant can request a continuance of a complaint.
- Deputy City Attorney Paul Zarefsky said his understanding was that the Complaint Committee was in support of his presentation.
- Kimo Crossman said that hearing the items before the complaint would be prejudicial. Asked that item #6 be continued and that item #7 be heard before item #5.
- James Chaffee said that a workshop would require a broader perspective and that a presentation by the City Attorney's Office would not be a common sense approach.
- Martin McIntyre said that a workshop should include an outside expert, and that there was no reason to continue item #6.
- Ron Vinson asked that item #6 not be continued.

Motion to postpone presentations for item #2 by Deputy City Attorney Paul Zarefsky and the Department of Telecommunications and Information Services until the call of the Chair. (Wolfe / Goldman)

Ayes: Craven, Knee, Cauthen, Vongs, Chu, Comstock, Wolfe, Goldman, Williams

Noes: Pilpel

Excused Absent: Chan

Motion to continue item #6 to the next SOTF meeting. (Comstock / Wolfe)

Ayes: Craven, Knee, Cauthen, Vongs, Chu, Comstock, Wolfe, Goldman, Williams

Noes: Pilpel

Excused Absent: Chan

Motion to hear item #7 before item #5. (Wolfe / Goldman)

Ayes: Craven, Knee, Cauthen, Vongs, Chu, Comstock, Wolfe, Goldman, Williams

Noes: Pilpel

Excused Absent: Chan

1. Approval of minutes of July 25, 2006, and August 22, 2006.

Speakers: Peter Warfield stated that the minutes for the July meeting should reflect that item 13 was heard out of sequence. That the

minutes for item 1 of the August agenda be revised to state that he asked the Task Force to consider "reflecting what he actually said" not that his comments be changed.

Motion to approve minutes of July 25, and August 22, 2006.
(Cauthen / Goldman)

Ayes: Craven, Knee, Cauthen, Vongs, Chu, Comstock, Pilpel, Wolfe, Goldman, Williams

Excused Absent: Chan

2. Discussion re: Presentations by Zac Multrux on the general overview of metadata in electronic records; Paul Zarefsky, Deputy City Attorney on legal implications, and the Department of Telecommunications and Information Services on the Cities technical/operational issues.

Zac Multrux made the presentation and provided a definition for metadata, discussed the risk of metadata, and the tools used and process to review and remove metadata.

Speakers:

- Martin McIntyre said the Office of the City Attorney has frequently thwarted his attempts at having the law followed and obeyed. Their excuse? They serve the Departments not the public. Metadata is public information.
- Kimo Crossman showed a demo on how to remove metadata using a \$80 program called "Metadata Assistant."
- James Chaffee said that metadata is useful because it reveals the truth that people do not want disclosed.
- Peter Warfield said that metadata is not mysterious or complicated. It's just information created in the process of doing public work. He is concerned about being able to strip information from any document, that the public has the full right to documents with explanations for redaction's under the law.

3. Report from Complaint Committee meeting of August 8, 2006, and September 12, 2006.

Member Cauthen made the report

Member Cauthen indicated that the new procedure to provide information to assist in drafting Orders of Determination is designed to be a simple and flexible document; it is not a draft Order of Determination, because they have not heard the evidence. The document lays out the issues and what the committee finds is the relevant code sections without prejudging the complaint.

Pilpel asked that a line be included in the document to indicate whether the matter comes to the Task Force as a 67.21 (e), 67.30 (c), or 12L request.

- Speakers: Kimo Crossman alleged that he asked to see the draft Order of Determination but it was not provided, and asked that a procedure be established to allow Complainants to see

the draft so that they can include a response in the record.

- Peter Warfield praised the Complaint Committee for providing additional information. Stated that the wording should be clear at the time of the meeting so that members of the public may comment on it. He asked if the Task Force routinely have and expect departments, pursuant to 67.21, to be present so that the Complaint Committee can have as much information as possible when preparing the document.

06011 Recommendation to accept jurisdiction of complaint filed by Beth Rimbey against the Office of Emergency Services and the Mayors Office of Communications for alleged failure to produce documents, incomplete production of documents, unnecessary redactions, and untimely response.

Speakers: None

Motion to accept jurisdiction. (Cauthen / Wolfe)

Ayes: Craven, Knee, Cauthen, Vongs, Chu, Comstock, Pilpel, Wolfe, Goldman, Williams

Excused Absent: Chan

06013 Recommendation to accept jurisdiction of complaint filed by Kimo Crossman against the Office of the Clerk of the Board for alleged failure to provide public record in original Word format and failure to provide written justification for withholding.

Speakers: None

Motion to accept jurisdiction. (Cauthen / Knee)

Ayes: Craven, Knee, Cauthen, Vongs, Chu, Comstock, Pilpel, Wolfe, Goldman, Williams

Excused Absent: Chan

06014 Recommendation to accept jurisdiction of complaint filed by Kimo Crossman against the Department of Telecommunications and Information Services for alleged failure to produce records and to provide in electronic format.

Previous continued.

06015 Recommendation to accept jurisdiction of complaint filed by Allen Grossman against the Office of the Clerk of the Board and Sunshine Ordinance Task Force Administrator for alleged failure to provide public record in original Word format and failure to provide written justification for withholding.

Speakers: None

Same house same call

Motion to accept jurisdiction. (Cauthen / Goldman)

Ayes: Craven, Knee, Cauthen, Vongs, Chu, Comstock, Pilpel, Wolfe, Goldman, Williams

Excused Absent: Chan

4. 06011 Public Hearing, complaint filed by Beth Rimbey against the Office of Emergency Services and the Mayors Office of Communications for alleged failure to produce documents, incomplete production of documents, unnecessary redactions, and untimely response.

Member Knee disclosed that he has been aware for several months that this complaint was coming. That he spoke with Beth Rimbey and some of her colleagues to provide procedural advice, however they did not discuss the substance of the complaint. He doesn't feel that the conversations or their acquaintanceship will prejudice his position in this case.

Speakers: Dan Noyes and Beth Rimbey, Complainant; Jennifer Petrucione, Deputy Communications Director, Mayors Office of Communication (MOC)

- Robert Planthold, in support of the complaint, said that OES is hiding life and death information that would let the public know their risk, and whether the plans are adequate, competent, appropriate and thorough.
- Kimo Crossman said that the City Attorney's Office has no redaction policy; that the only redaction policy is in the Ordinance and State law.
- Martin McIntyre, supports the complaint; said the he has the same experience trying to gain records from other departments and welcomes KGO.
- Peter Warfield, in support of the complaint, said that from his own experience City departments try to shake you off, weigh you down or make you go away. The ordinance is very clear about justification for withholding and withholding kept to a minimum (Sections 67.26, 67.27), the Task Force should make certain that the withholdings were done properly. Wish the Task Force had a stronger authority to enforce its findings.

Motion finding the Office of Emergency Services and the Mayor's Office of Communications violated Sections 67.21, 67.24 (a), 67.25, and 67.26 of the Sunshine Ordinance for failure to respond in a timely manner, failure to produce documents and drafts requested, and improper redactions. (Craven / Knee)

Ayes: Craven, Knee, Cauthen, Vongs, Chu, Comstock, Pilpel, Wolfe, Goldman, Williams

Excused Absent: Chan

The Sunshine Ordinance Task Force request that the Office of Emergency Services and the Mayor's Office of Communications provide the requested documents to Ms. Rimbey within five (5) business days, or provide a date when they will be available.

5. 06013 Public hearing, complaint filed by Kimo Crossman against the Office of the Clerk of the Board for alleged failure to provide public record in

original Word format and failure to provide written justification for withholding.

Speakers: Kimo Crossman, Complainant; Gloria Young, Clerk of the Board of Supervisors;

- Allen Grossman said that the COB policy of complying with the City Attorney's advice does not apply, as per Section 67.24 (i). There is no attorney-client privilege when Sunshine requests are involved.
- Peter Warfield, in support of the complaint, urged the Task Force to consider violations of other sections of the Ordinance listed on page 104 of the packet including Sections 67.26 and 67.27.

Motion finding a violation of Sections 67.21 (l) and Government Code Section 6253.9 (a). (Wolfe / Chu)

Ayes: Cauthen, Chu, Comstock, Wolfe

Noes: Knee, Pilpel, Williams

Excused Absent: Craven, Vongs, Chan, Goldman

Member Knee indicated that he may request that the matter be brought back for rehearing at the next full Task Force meeting.

6. 06014 Public hearing, complaint filed by Kimo Crossman against the Department of Telecommunications and Information Services for alleged failure to produce records and to provide in electronic format.

Previously continued.

7. 06015 Public hearing, complaint filed by Allen Grossman against the Office of the Clerk of the Board and Sunshine Ordinance Task Force Administrator for alleged failure to provide public record in original Word format and failure to provide written justification for withholding.

Speakers: Allen Grossman, Complainant; Gloria Young, Clerk of the Board of Supervisors;

- Peter Warfield, in support of complaint, indicated that Section 67.21 (i), 67.26, and 67.27 are the appropriate sections violated.
- Kimo Crossman, in support of complaint, said that the COB has no written policy regarding converting Word documents to PDF and that Paul Zarefsky has not been asked to speak but should be held accountable.
- Deputy City Attorney Paul Zarefsky, in response to questions from the Task Force said that there is some ambiguity in Government Code Section 6253.9; that it has an applied rule of reason, and that Section 67.21 (l) of the Ordinance focuses on the medium rather than the format.

Motion finding a violation of Sections 67.21 (l) of the Sunshine Ordinance, and California Government Code Section 6253.9 (a).

(Comstock / Knee)

Ayes: Knee, Cauthen, Chu, Comstock, Pilpel, Wolfe, Goldman

Noes: Williams

Excused Absent: Craven, Vongs, Chan

8. Report: Compliance and Amendments Committee: meeting of Sept. 11, 2006.

Member Knee made the report. He indicated that due to the holiday, the next meeting will be on Wednesday, October 11, rather than Monday October 9. Member Knee also indicated that information regarding the California First Amendment Coalition can be found at www.cfac.org.

Speakers: None

9. 06004 The Compliance and Amendments Committee (CAC) has returned the June 27, 2006 Order of Determination of Robert Planthold vs Municipal Transportation Agency (MTA) for further action because the CAC has found non compliance with the order by the MTA.

Member Knee reported on the CAC's findings.

Speakers: Robert Planthold, Complainant.

- Peter Warfield noted that a representative of the department is not present at the meeting, as required in Section 67.21 (e). That since the department did not comply with the Order of Determination, within 5 days, the next action is to notify the District Attorney or Attorney General.

Motion that this complaint be referred to the Ethics Commission and the District Attorney for review and for an independent enforcement action against the department. (Knee / Goldman)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Wolfe, Goldman, Williams

Noes: Pilpel

Excused Absent: Vongs, Chan

10. Report from Education, Outreach and Training Committee.

Member Pilpel made the report that there was no meeting this month.

Speakers: None

11. Continued report re: Draft Sunshine Ordinance Task Force 2005 Annual Report

Member Pilpel made the report, indicating that the report is ready for adoption.

Speakers: None

Motion to transmit the Sunshine Ordinance Task Force 2005 Annual Report with a cover letter from the Chair. (Pilpel / Chu)

Ayes: Knee, Cauthen, Chu, Comstock, Pilpel, Williams

Excused Absent: Craven, Vongs, Chan, Wolfe, Goldman

12. E-mail Policy of the Sunshine Ordinance Task Force.

Postponed until the call of the Chair.

Speakers: None

13. City College Sunshine Proposal.

Chair Comstock stated there will be a meeting on Thursday, at 6 PM in room 406 to discuss the City College proposal.

Speakers: None

14. Administrator's Report.

The Administrator made the report.

Member Pilpel asked that letters be drafted and sent to Mr. Warfield and Ms. Brinkman regarding the response from the Ethics Commission, indication that they are taking no action.

Chair Comstock asked the Administrator to put on hold a discussion re: responding to request from complainants to set their complaints as pending or postponed rather than to take action.

Speakers: None

15. Public comment for items not listed on the agenda.

Speakers:

- James Chaffee alleged that the Library Commission (LC) mistreats him, that on one occasion a role of toilet paper was placed on a chair that he normally sits in; that he received a response to his complaint that he filed with the LC, alleging falsification of documents, which said that he was "meaningless, ridiculous, and stupid." That its not a joke when a member of the SOTF comes to the LC meeting saying that the guard should feel free to remove him, which shows that the SOTF is a part of the power structure that keeps the system of lies in City Hall in place.
- Peter Warfield said that with regards to agendized items, there should be openness, balance and fairness that allow others, besides parties to complaints from the City, to express other views; that the Task Force members are entitled to respond to public comment in ways that are responsive to the public but

not with an action or extensive discussion; that any advice from the DCA to the Task Force should be documented so that the public can follow the guidelines, rulings and opinions.

- Kimo Crossman alleged that Gloria Young deleted communications that she received from the City Attorney and then said that she never received them. (handed out packet of documents) CAO1 –email train.

16. Announcements, questions, and future agenda items from the Task Force.

- Member Knee indicated that at the next meeting he will introduce a motion to support videographer-blogger Josh Wolfe in his fight to protect the First Amendment.
- Member Williams indicated that the consultant for item 2 was helpful; stated that it is inappropriate for campaign information to be mailed to them at the office, that they should be forwarded to Members homes; that her name should be listed, in the Annual Report, as a member of the Education, Outreach and Training Committee.
- Member Pipel asked that the Supervisor of Records annual report be provided at the October or November meetings. Asked that a copy of the resolution by the Board of Supervisors regarding development of an attendance policy be included in next months packet.
- Member Wolfe suggested that as an operational policy Gender Stacking be applied when the chair calls on people. Asked if the Task Force should consider a policy that consistent violations found against a department within a specific timeframe be referred to an enforcement agency.
- Member Cauthen suggested that a policy used by the prior Administrator be reinstated that involves changing the vote order on action items.

Speakers: Peter Warfield said that the Task Force has no policy regarding how to deal with wholesale violators. That the Library is generally understood to be one of the worst violators. The Task Force has not done what it is supposed to do under the law, which is to forward ongoing violations to other bodies. The Task Force has the option to find that violations were willful, which would be useful to bodies whenever the Task Force finds flagrant or frequent violations in a particular department.

Adjournment

The meeting was adjourned at 9:48 p.m.

This meeting has been audio recorded and is on file in the Office of the Sunshine Ordinance Task Force.

Sunshine Ordinance Task Force



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-7724
Fax No. 554-7854
TDD/TTY No. 544-5227

<http://www.sfgov.org/sunshine/>

**SUNSHINE ORDINANCE TASK FORCE
AGENDA**

Tuesday, October 24, 2006
4:00 p.m., City Hall, Room 408

DOCUMENTS DEPT

OCT 19 2006

SAN FRANCISCO
PUBLIC LIBRARY

Task Force Members

Seat 1	Erica Craven (Vice Chair)	Seat 8	Bruce Wolfe
Seat 2	Richard Knee	Seat 9	Hanley Chan
Seat 3	Sue Cauthen	Seat 10	Nick Goldman
Seat 4	Pueng Vongs	Seat 11	Marjorie Ann Williams
Seat 5	Kristin Chu		
Seat 6	Doug Comstock (Chair)	Ex-officio	Gloria Young
Seat 7	David Pilpel	Ex-officio	Vacant

10-19-06 PD 41 9200

Note: Each item on the Agenda may include minutes, department or agency letters and reports; Task Force reports; and public correspondence. These items will be available for review at City Hall, Sunshine Ordinance Task Force, Room 244.

Call to Order

Roll Call

Agenda Changes

1. Approval of minutes of September 26, 2006. (action item) (10 minutes) (attachment)
 2. Report from Complaint Committee meeting of September 12, 2006, and October 10, 2006. (Sue Cauthen) (action item) (10 min) (attachment)
- 06008 Recommendation to accept jurisdiction of complaint filed by Kimo Crossman
& against the Department of Telecommunications and Information Services for
06009 alleged untimely response, failure to respond to a IDR, to provide records
incrementally, to exempt review, to provide records electronically, and to use
computer technology to reduce cost.
- 06014 Recommendation to accept jurisdiction of complaint filed by Kimo Crossman
against the Department of Telecommunications and Information Services for
alleged failure to produce records and to provide in electronic format
- 06017 Recommendation to accept jurisdiction of complaint filed by Michael Petrelis
against the Department of Public Health-Community Advisory Board for
alleged failure to post meeting notices and agendas on the web and local
publications, and failure to post agendas and minutes of its meetings.

Sunshine Ordinance Task Force



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-7724
Fax No. 554-7854
TDD/TTY No. 544-5227

<http://www.sfgov.org/sunshine/>

**SUNSHINE ORDINANCE TASK FORCE
AGENDA**

Tuesday, October 24, 2006
4:00 p.m., City Hall, Room 408

DOCUMENTS DEPT

OCT 19 2006

SAN FRANCISCO
PUBLIC LIBRARY

Task Force Members

Seat 1	Erica Craven (Vice Chair)	Seat 8	Bruce Wolfe
Seat 2	Richard Knee	Seat 9	Hanley Chan
Seat 3	Sue Cauthen	Seat 10	Nick Goldman
Seat 4	Pueng Vongs	Seat 11	Marjorie Ann Williams
Seat 5	Kristin Chu		
Seat 6	Doug Comstock (Chair)	Ex-officio	Gloria Young
Seat 7	David Pilpel	Ex-officio	Vacant

Note: Each item on the Agenda may include minutes, department or agency letters and reports; Task Force reports; and public correspondence. These items will be available for review at City Hall, Sunshine Ordinance Task Force, Room 244.

Call to Order

Roll Call

Agenda Changes

1. Approval of minutes of September 26, 2006. (action item) (10 minutes) (attachment)
2. Report from Complaint Committee meeting of September 12, 2006, and October 10, 2006. (Sue Cauthen) (action item) (10 min) (attachment)
 - 06008 & 06009 Recommendation to accept jurisdiction of complaint filed by Kimo Crossman against the Department of Telecommunications and Information Services for alleged untimely response, failure to respond to a IDR, to provide records incrementally, to exempt review, to provide records electronically, and to use computer technology to reduce cost.
 - 06014 Recommendation to accept jurisdiction of complaint filed by Kimo Crossman against the Department of Telecommunications and Information Services for alleged failure to produce records and to provide in electronic format.
 - 06017 Recommendation to accept jurisdiction of complaint filed by Michael Petrelis against the Department of Public Health-Community Advisory Board for alleged failure to post meeting notices and agendas on the web and local publications, and failure to post agendas and minutes of its meetings.

3. 06008 & 06009 Public Hearing, complaint filed by Kimo Crossman against the Department of Telecommunications and Information Services for alleged untimely response, failure to respond to a IDR, to provide records incrementally, to exempt review, to provide records electronically, and to use computer technology to reduce cost.
4. 06014 Public Hearing, complaint filed by Kimo Crossman against the Department of Telecommunications and Information Services for alleged failure to produce records and to provide in electronic format.
5. 06017 Public Hearing, complaint filed by Michael Petrelis against the Department of Public Health-Community Advisory Board for alleged failure to post meeting notices and agendas on the web and local publications, and failure to post agendas and minutes of its meetings.
6. 06013 Reconsideration of complaint filed by Kimo Crossman against the Office of the Clerk of the Board for alleged failure to provide public record in original Word format and failure to provide written justification for withholding. (discussion and possible action) (30 minutes) (attachment)
7. Report: Compliance and Amendments Committee: meeting of October 11, 2006. (Richard Knee). (discussion and possible action) (5 min) (attachment)
8. Report: Education, Outreach and Training Committee. (David Pilpel) (discussion and possible action) (5 min) (no attachment)
9. Report: City College Adhoc Committee: meeting of September 28, 2006. (Doug Comstock) (discussion and possible action) (5 min) (attachment)
10. Advice from the City Attorney to other City officers and employees on the Sunshine and Ethics implications of their actions and policies (discussion and possible action) (10 min) (attachment)
11. Resolution supporting the right of journalists to protect source identities and to keep possession of unpublished/unaired materials; echoing the resolution of the Board of Supervisors in support of freelance blogger/videographer Joshua Wolf; and urging the Board and the Mayor to express to San Francisco's U.S. Senate and House representatives their support of shield law legislation S.2831 and H.R. 3233, that are under consideration in Congress. (discussion and possible action) (10 min) (no attachment)
12. Sunshine Ordinance Task Force Policy on release of its electronic records. (discussion and possible action) (10 min) (attachment)
13. Discussion re: Should the Task Force refer to the Ethics Commission, for violation, the names of Departments that don't attend meetings of the full Task Force or Committees as required under Section 67.21 (e) of the Ordinance. (discussion and possible action) (15 min) (no attachment)

14. Discussion regarding the Board of Supervisors funding guidelines as it applies to the Sunshine Ordinance Task Force. (discussion and possible action) (15 min) (no attachment)
15. Administrator's Report. (discussion and possible action item) (5 minutes) (attachment)
16. Public comment for items not listed on the agenda. Public comment to be held at 5:00 p.m., or as soon thereafter as possible. (no action item) (12 min)
17. Announcements, questions, and future agenda items from the Task Force. (no action item) (5 min) (no attachment)

Adjournment

Next Regular Meeting November 28, 2006

SUNSHINE ORDINANCE TASK FORCE HEARING PROCEDURES

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations. Any person speaking during a public comment period may supply a brief written summary of their comments, which shall, if no more than 150 words, be included in the minutes. (Section 67.16)

Each member of the public who is unable to attend the public meeting or hearing may submit to the City, by the time the proceeding begins, written comments regarding the subject of the meeting or hearing; these comments will be made a part of the official public record. (Section 67.7-1 (c))

- | | | |
|----|---|----------------------|
| 1. | Complainant presents his/her facts and evidence | 5 minutes |
| | Other parties present facts and evidence | Up to 3 minutes each |
| 2. | City responds | 5 minutes |
| | Other parties of City respond | Up to 3 minutes each |

Above total speaking time for Complainant and City to be the same

- | | | |
|----|---|----------------------|
| 3. | Complainant presents rebuttal | 3 minutes |
| 4. | Public comment | Up to 3 minutes each |
| | (Excluding Complainant & City response, witnesses) | |
| 5. | Matter is with the Task Force for discussion and deliberation | |
| 6. | Vote by Task Force | |

Note: Time must be adhered to, if a speaker is interrupted by questions, the interruption does not count against his/her time.

Disability Access: The hearing room is wheelchair accessible.

Chemical-Based Products: In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals.

Cell phones, pagers and similar sound-producing electronic devices : The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decision in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact Frank Darby by mail to Administrator, Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102-4689; by phone at 415 554 7724; by fax at 415 554 7854; or by email at sotf@sfgov.org.

Citizens interested in obtaining a free copy of the Sunshine Ordinance can request a copy from Mr. Darby or by printing Chapter 67 of the San Francisco Administrative Code on the Internet, <http://www.sfgov.org/sunshine/>

Lobbyist Registration & Reporting Requirements

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance (SF Campaign & Governmental Conduct Code Sec. 2.100) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415 581-2300; fax (415 581-2317); web site: sfgov.org/ethics.



Board of Supervisors

Sunshine Ordinance Task Force

October 24, 2006

SUNSHINE ORDINANCE TASK FORCE

MINUTES

Tuesday, October 24, 2006

4:00 p.m., City Hall, Room 408

Task Force Members

Seat 1	Erica Craven (Vice Chair)	Seat 8	Bruce Wolfe
Seat 2	Richard Knee	Seat 9	Hanley Chan
Seat 3	Sue Cauthen	Seat 10	Nick Goldman
Seat 4	Pueng Vongs	Seat 11	Marjorie Ann Williams
Seat 5	Kristin Chu		
Seat 6	Doug Comstock (Chair)	Ex-officio	Gloria Young
Seat 7	David Pilpel	Ex-officio	Vacant

DOCUMENTS DEPT.

MAR 13 2007

SAN FRANCISCO
PUBLIC LIBRARY

Call to Order The meeting called to order at 4:04 p.m.

Roll Call Present: Craven, Knee, Cauthen, Vongs, Chu,
Comstock, Pilpel (arrived at 4:10), Wolfe (arrived at
4:26), Chan, Williams
Excused: Goldman

Agenda Changes: Item #5 was heard after item #2; item
#16 was heard after item #5; item #3 was heard after
item #16; item #6 and subsequent sections were heard
after item #3.

Deputy City Attorney: Ernie Llorente

Administrator: Frank Darby

- Approval of minutes of September 26, 2006

Speakers: Kimo Crossman: commended Linda Wong for quality of

the minutes, which he feels reflects the quality of detail needed.

Motion to approve minutes of September 26, 2006. (Knee / Cauthen)

Ayes: Craven, Knee, Cauthen, Vongs, Chu, Comstock, Chan, Williams

Absent: Pilpel, Wolfe

Excused Absent: Goldman

2. Report from Complaint Committee meeting of September 12, 2006, and October 10, 2006.

Member Cauthen made the report

Speakers: None

06008 & 06009 Recommendation to accept jurisdiction of complaint filed by Kimo Crossman against the Department of Telecommunications and Information Services for alleged untimely response, failure to respond to a IDR, to provide records incrementally, to exempt review, to provide records electronically, and to use computer technology to reduce cost.

Speakers: Kimo Crossman stated that DTIS did not attend the Complaint Committee hearing. Peter Warfield stated that the Complainants have a right to make public comment on this item; that departments are required to attend Task Force meetings and urged that the Task Force take action against departments that don't attend required meetings.

Motion to accept jurisdiction. (Cauthen / Knee)

Ayes: Craven, Knee, Cauthen, Vongs, Chu, Comstock, Pilpel, Chan, Williams

Absent: Wolfe

Excused Absent: Goldman

06014 Recommendation to accept jurisdiction of complaint filed by Kimo Crossman against the Department of Telecommunications and Information Services for alleged failure to produce records and to provide in electronic format.

Speakers: Kimo Crossman, Complaint, requested a continuance because he does not have all of the documents requested from DTIS, as listed on pg. 174 & 175 of the packet, which are needed to support his complaint; Ron Vinson, Respondent, requested that the complaint not be continued; that he does not have records responsive to this complaint, and had made the same request at last months Task Force meeting.

Peter Warfield read from Section 67.21 (e) regarding the attendance

at Task Force meetings by the department's custodian of records. He said that complainants should be allowed to continue their complaint, at will, however departments should not be allowed the opportunity to continue the item because they could drag out the complaint.

Motion to continue to the next meeting. (Cauthen / Chu)

Ayes: Knee, Cauthen, Vongs, Chu, Comstock, Wolfe, Chan, Williams

Noes: Craven, Pilpel

Excused Absent: Goldman

- 06017 Recommendation to accept jurisdiction of complaint filed by Michael Petrelis against the Department of Public Health-Community Advisory Board for alleged failure to post meeting notices and agendas on the web and local publications, and failure to post agendas and minutes of its meetings.

Speakers: None

Motion to accept jurisdiction. (Cauthen / Chan)

Ayes: Craven, Knee, Cauthen, Vongs, Chu, Comstock, Pilpel, Wolfe, Chan, Williams

Excused Absent: Goldman

3. 06008 & 06009 Public hearing, recommendation to accept jurisdiction of complaint filed by Kimo Crossman against the Department of Telecommunications and Information Services for alleged untimely response, failure to respond to a IDR, to provide records incrementally, to exempt review, to provide records electronically, and to use computer technology to reduce cost.

Speakers: Kimo Crossman, Complainant; Ron Vinson, Department of Telecommunications and Information Services.

Allen Grossman: said that although the request is voluminous it's the department's job to provide the record.

Peter Warfield, cited Section 67.25, 26 and 27 re: untimely response, withholding kept to a minimum, and justification for withholding. He said that it's the employee's job to provide the material.

Member Pilpel asked Mr. Crossman, pursuant to Section 67.25 (c), why he wanted the documents in electronic format. Member Knee moved that the question be ruled improper, however there was no second to the motion. Member Craven stated that the question was proper because the answer might help the Task Force determine whether Mr. Crossman received the information for the purpose that he requested.

Kimo Crossman responded that he just wanted the record in its original format.

Motion finding a violation of sections 67.21 (l) and 67.27 for failure to provide records in electronic format and failure to provide justification for withholding. (Craven / Comstock)

The Task Force understands that the original requests, and other requests pending at that time, were extensive and voluminous. Therefore, this order is prospective only. The Department of Telecommunications and Information Services will not be required to retroactively produce the requested documents in native electronic format. Nothing in this order, however, prevents Mr. Crossman from resubmitting a narrowly tailored request seeking specific documents in their electronic format.

This item need not be referred to the Compliance and Amendments Committee since no action need be taken.

Ayes: Craven, Knee, Cauthen, Vongs, Chu, Comstock, Wolfe, Williams

Noes: Pilpel

Excused Absent: Goldman, Chan

4. 06014 Public hearing, complaint filed by Kimo Crossman against the Department of Telecommunications and Information Services for alleged failure to produce records and to provide in electronic format.

Previously continued.

5. 06017 Public hearing, complaint filed by Michael Petrelis against the Department of Public Health-Community Advisory Board for alleged failure to post meeting notices and agendas on the web and local publications, and failure to post agendas and minutes of its meetings.

Member Williams indicated that she is familiar with both parties but can be fair and impartial.

Deputy City Attorney Llorente reminded the Task Force about the request from CAB for a separate time to comment as a party of interest, and explained the process for providing equal time for each party.

Chair Comstock, by consensus of the Task Force, indicated that the CAB, as a party of interest, will be allowed the same amount of time as the department. He informed Mr. Petrelis that he have 10 minutes to present his complaint and 6 minutes for rebuttal.

Speakers: Michael Petrelis, Complainant; Hank Wilson for complainant: need to know whose on CAB, be allowed to have public comment and be able to talk to people directly involved; Dr. Susan Buchbinder, Department of Public Health; Robert Reinhard, CAB Member,

Gavin Hall – described CAB's function and purpose;

Matthew Lawrence – discussed CAB's community outreach and the need for privacy and confidentiality, which allows for open and honest

feedback.

Israel – Talked about CAB's research studies with the community.

Kimo Crossman – urged CAB to provide a method for public participation without affecting privacy of participants;

Jennifer S. – urged the Task Force to allow the CAB to remain as is because there are difficult emotional issues, and participants need to feel safe;

Mark H. – indicated other methods to get research information without going through CAB.

Member Cauthen and Member Knee, by consensus of the Task Force, asked that the DPH, through Dr. Buchbinder, provide clarification to the Task Force by providing 1) An Organization Chart, 2) documentation re: where the CAB gets its funds, 3) documentation re: where the CAB gets its information, and 4) a copy of their Education Plan.

Mr. Petrelis agreed to waive the 45 day requirement to grant a continuance until the November 28, Task Force meeting.

Member Pipel moved to continue the item, without objection.

6. 06013 Reconsideration of complaint filed by Kimo Crossman against the Office of the Clerk of the Board for alleged failure to provide public record in original Word format and failure to provide written justification for withholding.

Linda Wong Clerked the meeting.

Member Pipel asked, as a point of order, if only those Members on the prevailing side and who voted on this item at the previous meeting can vote on and introduce/second a motion on today's reconsideration?

Deputy City Attorney Llorente, informed the Task Force that all Members present can introduce/second a motion and/or vote on the item.

Speakers: Kimo Crossman, Complaint; Allen Grossman, in support of the complainant said that since the document have already been provided this is mute, except that because of the litany of reasons used at the hearing for not providing the document, there will continue to be an issue of trust, respect, honesty and integrity in the way that City departments respond to these request. Frank Darby, Records and Information Manager, Office of the Clerk of the Board

Peter Warfield, urged the Task Force to find a violation using the strongest language possible, because the violation was most unfortunate and significant, was not handled properly, and legal reasons for withholding were not provided.

Motion finding a violation of Sunshine Ordinance section 67.21 (l) and

Ayes: Craven, Knee, Cauthen, Vongs, Chu, Comstock, Wolfe, Williams

Noes: Pilpel

Excused Absent: Goldman, Chan

Member Williams expressed that she was offended by the statements written about her on pages 249 and 250 of the packet regarding this complaint; that it is derogatory and not an accurate characterization of her; that she has never been pro or con for anyone, while serving on the Task Force, but does what she believes is right and just. She said that she does not deserve to be written up in that light; that she does not know Gloria Young or Frank Darby outside of the Task Force, and that she is for the people of San Francisco.

7. Report: Compliance and Amendments Committee: meeting of October 11, 2006.

Member Knee made the report. He indicated that due to the holiday the next meeting will take place on Wednesday, November 15.

Speakers: Kimo Crossman suggested that the COB should not determine the work that the Administrator performs for the Task Force. He suggest that the CAC reconsider adding in Section 67.16 a requirement that every word provided by the City Attorney be included in the minutes; that there should be an ethical wall between the Supervisor of records and the rest of the City Attorney's office.

Allen Grossman said that the Task Force members and the public who spend long hours help the process and to make it work; that the process for obtaining public records by persons requesting them from Departments depends on the honesty, respect, integrity, good faith and commitments of the City employees who have custody, and upon the CAO observance of the constraints imposed on them under the statue. He quoted from the GGG re: the CAO holding a position of public trust; that departments should not be allowed to stonewall the process.

Peter Warfield – asked that some public outreach be done to allow the public to describe their experience on Sunshine; asked that a table of contents be added when there is a 300 page packet; that Deputy City Attorney Llorente's name is spelled incorrectly in the minutes. Urged that attorney commentary be noted and included in Task Force procedures.

Member Pilpel asked Mr. Warfield to provide the Task Force with a copy of the Library's CAC minutes.

8. Report from Education, Outreach and Training Committee.

Member Pilpel made the report that there was no meeting this month. The next meeting will be November 9, 2006, from 3 – 5 PM.

Speakers: None

9. Report from City College Ad Hoc Committee: meeting of September 28, 2006.

Chair Comstock made the report.

Speakers: Kimo Crossman commended the Committee on doing excellent work.

10. Advice from the City Attorney to other City officers and employees on the Sunshine and Ethics implications of their actions and policies.

Speakers: Matt Dorsey, Public Information Officer, City Attorney's Office, explained that the intent of there advice, as indicated on page 15 of the Good Government Guide, which states..."City officers and employees should be aware that legal advice on ethics laws and open government laws may not be confidential..." is to inform and educate the departments with regards to none attorney-client privileged information, and is not to discourage departments from seeking written advice.

Allen Grossman: Stated that any opinion or advice given by the City Attorney Office (CAO) regarding the Sunshine Ordinance should be recorded and publicly available, so that everyone can see it; that the language allows departments to hide oral advice received from the CAO in violation of Section 67.21 (i). He does not believe that the CAO is doing all it can to ensure access to public records.

Peter Warfield: Stated that the language is a recipe for evasion and for hiding what was told. He cited from Section 67.21 (a), and (c) information is not just what's on paper but also what is orally transmitted; that it is dangerous to allow oral information a cloak of secrecy. Urged amendment to the Ordinance to, if necessary, make it more explicit on this matter.

Kimo Crossman: Cited section 67.20 (b) re: the definition of public record; that the language is a recipe for avoiding and showing what happened; that the Task Force should use its power to require that the City Attorney record all Sunshine matters and that the language be removed from the Good Government Guide.

11. Resolution supporting the right of journalists to protect source identities and to keep possession of unpublished/unaired materials; echoing the resolution of the Board of Supervisors in support of freelance blogger/videographer Joshua Wolf; and urging the Board and the Mayor to express to San Francisco's U.S. Senate and House representatives their support of shield law legislation S.2831 and H.R. 3233, that are under consideration in Congress.

Speakers: None

Member Knee requested that this item be continued, without objection.

Pilpel asked if the proposed resolution was in the Task Force's purview, with the power to adopt?

Deputy City Attorney Llorente responded that the matter goes beyond

the power/scope of the Task Force under Section 67.30, but that the Task Force can do what it feels is appropriate, however the amount of weight it carries is another issue; that it is the feeling of the body to make a statement they have a right to make a statement.

Continued without objection.

12. Sunshine Ordinance Task Force Policy on release of its electronic records.

Chair Comstock requested that this item be rescheduled and the word "its" removed so that the Task Force can have a general discussion on the matter.

Motion, It is the policy of the Sunshine Ordinance Task Force to release all requested electronic records in their original format unless an alternative format is specified by the requestor and/or the respondent provides specific statutory exemption. (Knee / Cauthen)

Speakers: Kimo Crossman: stated that the policy was not necessary and urged against its approval because it leaves the impression that departments can do otherwise.

Peter Warfield: urged the Task Force to reconsider or withdrew the motion because the law provides ample guidance on what's provided and the implication is that this policy would make the law appear unclear or that something is wrong.

Allen Grossman: Stated that the Clerk of the Board asserts that she has authority over the Task Force records, but that that the Administrator is responsible only to the Task Force and not the Clerk of the Board regarding the custodianship of Task Force records; that the act of assignment of a Administrator is the only function that the COB has in relation to the performance, duties and procedures that are followed by the Task Force and its Administrator.

Member Knee withdrew the motion, after hearing comments from Members and the public.

13. Discussion re: Should the Task Force refer to the Ethics Commission, for violation, the names of Departments that don't attend meetings of the full Task Force or Committees as required under Section 67.21 (e) of the Ordinance.

Member Cauthen requested that this item be continued, without objection.

Member Pilpel asked if the Task Force have the power to refer this to the Ethics Commission for action.

Deputy City Attorney Llorente said referrals are made for officials that violate sections that deal with the Sunshine Ordinance. Its problematic in that a committee is making a referral to the Ethics Commission when the full body has not addressed the issue, fail to give the responding department an opportunity to explain their non appearance.

Chair Comstock informed members of the public that the item is being continued and that if they speak on this item now, that they would not be able to speak on it again.

Speakers: Kimo Crossman: encouraged the Task Force to address this matter in such away that departments don't send uninformed persons to represent them.

Peter Warfield cited Section 67.30, and said that the Task Force can issue a report of violations to the Ethics Commission; that the Task Force can also post violations, Orders of Determinations, and names of departments who don't appear on their web site; that the Task Force should ensure that the people who are sent are appropriately informed.

Allen Grossman: cited Section 67.34 saying that willful failure to appear is official misconduct, which can be reported to the Ethics Commission.

14. Discussion regarding the Board of Supervisors funding guidelines as it applies to the Sunshine Ordinance Task Force.

In response to Chair Comstock's question regarding the availability of SOTF guidelines, the Administrator informed the Task Force that he had no knowledge of any written guidelines regarding the Task Force. That the statement made saying that the Clerk of the Board (COB) is trying to reduce Task Force support is not accurate; that support provided by the COB is greater than what is required for 1FTE under the Ordinance.

Member Pilpel asked what the COB's role is with regards to the SOTF Administrator. Deputy City Attorney Llorente responded that although Mr. Darby has been assigned to the Task Force and to work doing all the duties as the Full Time Administrator, he is still an employee of the COB of Supervisors.

Speakers: Allen Grossman: stated that the Ordinance is clear that the Administrator is employed by the City and not the COB and can't add or change his duties.

Peter Warfield: said that the time and service is not the same with the new Administrator; alleged that he was overcharged for packets; that the SOTF budget is less than in previous years and not enough for a FTE; that the Task Force does not have the same support as in prior years.

Kimo Crossman: said that he has made a public records request for calendar entries of Frank Darby and all e-mail; that the Administrator does not respond to e-mail; that the Administrator has three job descriptions. He also discussed the COB's Efficiency Plan budget.

15. Administrator's Report.

The Administrator made the report.

Speakers: Peter Warfield expressed his dissatisfaction with the Task Force for not providing him with direct communication regarding the

letter received from the Ethics Commission regarding his 2004 complaint.

Kimo Crossman: stated that the Administrator is not working full time: alleges that the Task Force hours are not normal business hours.

Member Craven asked that a notation be added in the complaint log regarding referrals made by the Task Force.

16. Public comment for items not listed on the agenda.

Speakers: Peter Warfield informed the Task Force of an error in the September 26, minutes. Member Pilpel moved to amend the minutes as requested by Mr. Warfield, without objection.

Kimo Crossman, commended the Task Force on their thorough analysis of the complaint in item #5.

17. Announcements, questions, and future agenda items from the Task Force.

Member Pilpel was there are two measures on the November ballot that has barring on Sunshine related to teleconferencing and release of private information. He requested that the Supervisor of Records Report be agendized for the next meeting; that there may be some changes in state law re: public records and brown act which may need to be discussed. He asked to get the new approved Statement of Incompatible Activities from the Ethics Commission.

Adjournment

The meeting was adjourned at 9:55 p.m.

This meeting has been audio recorded and is on file in the Office of the Sunshine Ordinance Task Force.

Sunshine Ordinance Task Force



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-7724
Fax No. 554-7854
TDD/TTY No. 544-5227

<http://www.sfgov.org/sunshine/>

DOCUMENTS DEPT.

**SUNSHINE ORDINANCE TASK FORCE
AGENDA**

Tuesday, November 28, 2006
4:00 p.m., City Hall, Room 408

NOV 21 2006

SAN FRANCISCO
PUBLIC LIBRARY

Task Force Members

Seat 1	Erica Craven (Vice Chair)	Seat 8	Bruce Wolfe
Seat 2	Richard Knee	Seat 9	Hanley Chan
Seat 3	Sue Cauthen	Seat 10	Nick Goldman
Seat 4	Pueng Vongs	Seat 11	Marjorie Ann Williams
Seat 5	Kristin Chu		
Seat 6	Doug Comstock (Chair)	Ex-officio	Gloria Young
Seat 7	David Pilpel	Ex-officio	Vacant

11-21-06A11:04 RCN

Note: Each item on the Agenda may include minutes, department or agency letters and reports; Task Force reports; and public correspondence. These items will be available for review at City Hall, Sunshine Ordinance Task Force, Room 244.

Call to Order;

Roll Call;

Agenda Changes

1. Discussion re: the Sunshine implications of Proposition B (discussion and possible action) (20 min) (attachment)
 2. Discussion re: the Sunshine implications of Proposition D (discussion and possible action) (20 min) (attachment)
 3. Approval of minutes of October 24, 2006. (action item) (10 minutes) (attachment)
 4. Report from Complaint Committee meeting of October 10, 2006, and November 14, 2006. (Sue Cauthen) (action item) (10 min) (attachment)
- 06018 Recommendation to accept jurisdiction of complaint filed by Daisy Anarchy against the Entertainment Commission for alleged improper meeting notice, failure to post meeting agendas and minutes, and failure to allow public comment.
- 06019 Recommendation to accept jurisdiction of complaint filed by San Francisco Survival Manual on behalf of Dr. Wayne Lanier against the Mayor's Officer for alleged failure to provide requested records and to respond in a timely manner.

5. 06017 Continued public hearing, complaint filed by Michael Petrelis against the Department of Public Health-Community Advisory Board for alleged failure to post meeting notices and agendas on the web and local publications, and failure to post agendas and minutes of its meetings. (action item) (attachment)
6. 06018 Public Hearing, complaint filed by Daisy Anarchy against the Entertainment Commission for alleged improper meeting notice, failure to post meeting agendas and minutes, and failure to allow public comment. (action item) (attachment)
7. 06019 Public Hearing, complaint filed by San Francisco Survival Manual on behalf of Dr. Wayne Lanier against the Mayor's Officer for alleged failure to provide requested records and to respond in a timely manner. (action item) (attachment)
8. Report: Compliance and Amendments Committee: meeting of November 15, 2006. (Richard Knee). (discussion and possible action) (5 min) (attachment)
9. Report: Education, Outreach and Training Committee: meeting of November 9, 2006. (David Pilpel) (discussion and possible action) (5 min) (attachment)
10. Continued resolution supporting the right of journalists to protect source identities and to keep possession of unpublished/unaired materials; echoing the resolution of the Board of Supervisors in support of freelance blogger/videographer Joshua Wolf; and urging the Board and the Mayor to express to San Francisco's U.S. Senate and House representatives their support of shield law legislation S.2831 and H.R. 3233, that are under consideration in Congress. (discussion and possible action) (10 min) (no attachment)
11. Discussion re: Should the Task Force refer to the Ethics Commission, for violation, the names of Departments that don't attend meetings of the full Task Force or Committees as required under Section 67.21 (e) of the Ordinance. (discussion and possible action) (15 min) (no attachment)
12. Directive from the Rules Committee of the Board of Supervisors that the Task Force identify the cost to City departments for complying with the Sunshine Ordinance, and to provide a report to the Rules Committee. (discussion and possible action) (15 min) (no attachment)
13. Discussion re: Adopting of policy regarding member's attendance at meetings. (discussion and possible action) (15 min) (attachment)
14. Discussion re: Motion submitted to the Rules Committee of the Board of Supervisors, regarding its policy on electronic records. (discussion and possible action) (15 min) (no attachment)
15. Discussion re: Should the December 26, 2006 meeting of the full Task Force be rescheduled? (discussion and possible action) (15 min) (no attachment)

16. Administrator's Report. (discussion and possible action item) (5 minutes) (attachment)
17. Public comment for items not listed on the agenda. Public comment to be held at 5:00 p.m., or as soon thereafter as possible. (no action item) (12 min)
18. Announcements, questions, and future agenda items from the Task Force. (no action item) (5 min) (no attachment)

Adjournment

Next Regular Meeting December 26, 2006

SUNSHINE ORDINANCE TASK FORCE HEARING PROCEDURES

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations. Any person speaking during a public comment period may supply a brief written summary of their comments, which shall, if no more than 150 words, be included in the minutes. (Section 67.16)

Each member of the public who is unable to attend the public meeting or hearing may submit to the City, by the time the proceeding begins, written comments regarding the subject of the meeting or hearing; these comments will be made a part of the official public record. (Section 67.7-1 (c))

- | | |
|--|----------------------|
| 1. Complainant presents his/her facts and evidence | 5 minutes |
| Other parties present facts and evidence | Up to 3 minutes each |
| 2. City responds | 5 minutes |
| Other parties of City respond | Up to 3 minutes each |
| Above total speaking time for Complainant and City to be the same | |
| 3. Complainant presents rebuttal | 3 minutes |
| 4. Public comment | Up to 3 minutes each |
| (Excluding Complainant & City response, witnesses) | |
| 5. Matter is with the Task Force for discussion and deliberation | |
| 6. Vote by Task Force | |

Note: Time must be adhered to, if a speaker is interrupted by questions, the interruption does not count against his/her time.

Disability Access: The hearing room is wheelchair accessible.

Chemical-Based Products: In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals.

Cell phones, pagers and similar sound-producing electronic devices : The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decision in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact Frank Darby by mail to Administrator, Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102-4689; by phone at 415 554 7724; by fax at 415 554 7854; or by email at sotf@sfgov.org.

Citizens interested in obtaining a free copy of the Sunshine Ordinance can request a copy from Mr. Darby or by printing Chapter 67 of the San Francisco Administrative Code on the Internet, <http://www.sfgov.org/sunshine/>

Lobbyist Registration & Reporting Requirements

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance (SF Campaign & Governmental Conduct Code Sec. 2.100) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415 581-2300; fax (415 581-2317); web site: sfgov.org/ethics.

November 28, 2006

TO: Sunshine Ordinance Task Force

FM: Sue Cauthen for the Complaint Committee

RE: Information to Assist in Drafting Order of Determination

I. MICHAEL PETRELIS v. DPH (Department of Public Health) & the HIV Research Section Community Advisory Board (CAB)

Issues: CAB's failure to post meeting information, including agendas and minutes. DHP says CAB is not a public meeting body and therefore is not covered by the SO.

Relevant Code Sections are:

SO: 67.3 (definitions of meeting, policy body and passive meeting body), 67.4 (passive meeting notice), 67.6 (e) (passive meeting requirements), 67.9 (documents available at meetings), 67.21 (release public documents)

CPRA: 6253 AND 6253.1 (document requests).

The Order of Determination should state whether the Task Force determined that the CAB holds public meetings and is subject to the SO and CPRA sections stated above, or whether the complaint should be dismissed per DPH's argument that the CAB is not a public meeting body and is not subject to the Sunshine Ordinance..

If the Task Force finds that the CAB is a public meeting body, the OD shall state that the department shall provide meeting information (including agendas and minutes) to the complainant within five days and to the public thereafter.

II. DAISY ANARCHY v. ENTERTAINMENT COMMISSION

ISSUES: Failure to provide meeting notices, agendas and minutes; failure to permit public comment.

BACKGROUND: Anarchy charges the Entertainment Commission and staff with failing to provide notice and minutes of meetings in May and July, making a verbal criticism of her at an August meeting, and refusal to permit her to attend or comment at a September meeting in the mayor's office. Commission staff told the Complaint Committee that the May, July and September meetings were not regular or passive meetings but informal meetings with permit holders.

Relevant Code Sections:

Sunshine Ordinance (SO): 67.3 (Definition of meeting, passive & policy bodies), 67.4 (passive meeting requirements), 67.6(e) (procedures at passive meetings), 67.7 (agendas), 67.9(a) (review of documents during meetings), 67.15(a) public comment, 67.16 (minutes)

The Order of Determination shall state whether the Task Force determines the meetings in question to be public meetings under applicable provisions of the SO stated above or whether the complaint should be dismissed.

If the Task Force finds that a violation occurred, it may recommend that the Entertainment Commission and/or the Mayor's Office reschedule the meetings in question and provide agendas, minutes and public comment.

III. SAN FRANCISCO SURVIVAL MANUAL (ON BEHALF OF DR. WAYNE LANIER) v. THE MAYOR'S OFFICE.

ISSUES: Failure to provide documents in a timely fashion and failure to justify withholding in writing

BACKGROUND: The Mayor's Office (MO) did not provide Dr. Lanier with the mayor's calendar or information about the drafting and passage of Ordinance 179-05 CK IF ORDINANCE INCL for over eight months.

The MO told the Complaint Committee that the de facto custodian of records resigned and no one took over the job for several months; that segregation of personal data and requests for forthcoming calendars were issues; that the mayor's electronic calendar self-deletes over time; and that the MO is assessing ways to better retrieve public records.

RELEVANT CODE SECTIONS:

Sunshine Ordinance (SO): 67.21 (provide public documents, including electronic records), 67.21-1 (buy Sunshine-friendly computer systems), 67.25 (Immediate Disclosure Requests), 67.26 (redactions), 67.27 (justify withholding in writing), 67.29-5 (mayor calendar standards), 67.29-7 (record retention).

California Public Records Act (CPRA): 6253 (produce public records), 6255 (justify withholding).

The Order of Determination (OD) shall state whether the Task Force determines the records to be public under applicable provisions of the SO and CPRA, stated above, or whether the complaint should be dismissed.

As noted above, the Mayor's Office provided no written response to justify withholding the records.

If the Task Force finds a violation, the OD shall state that the Mayor's Office shall give the record to the complainant within five days.


[sf.gov](#) | [residents](#) | [business](#) | [government](#) | [visitors](#) | [online services](#) | [search](#)
[Home](#) >> [Sunshine Meeting Index](#) >> [Sunshine Ordinance Task Force](#)

Board of Supervisors

Sunshine Ordinance Task Force

November 28, 2006

SUNSHINE ORDINANCE TASK FORCE MINUTES

Tuesday, November 28, 2006
4:00 p.m., City Hall, Room 408

Task Force Members

Seat 1	Erica Craven (Vice Chair)	Seat 8	Bruce Wolfe
Seat 2	Richard Knee	Seat 9	Hanley Chan
Seat 3	Sue Cauthen	Seat 10	Nick Goldman
Seat 4	Pueng Vongs	Seat 11	Marjorie Ann Williams
Seat 5	Kristin Chu		
Seat 6	Doug Comstock (Chair)	Ex-officio	Gloria Young
Seat 7	David Pilpel	Ex-officio	Vacant

DOCUMENTS DEPT.

MAR 13 2007

SAN FRANCISCO
PUBLIC LIBRARY

Call to Order The meeting called to order at 4:07 P.M.

Roll Call Present: Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Wolfe (*arrived at 6:55*) Chan, Goldman
Excused: Vongs; Williams

Agenda Changes: Item #4-1 and #6 were continued by agreement of both parties. Item #7 was heard after item #4; item #17 was heard after item #7; item #5 was heard after item #17; item #8 and subsequent sections were heard after item #5.

Deputy City Attorney: Rosa Sanchez

Administrator: Frank Darby

1. Discussion re: the Sunshine implications of Proposition B.

Sarah Ballard, Legislative Assistant to Supervisor Alioto-Pier stated that the purpose of the proposition is to 1) allow teleconferencing for women who are Board of Supervisors, and/or in Boards and Commission who are sidelined due to pregnancy or childbirth as certified by their physicians, and 2) a parental leave policy for Board Members; that telecommute sites must be

properly noticed, be ADA compliant, and the public allowed to attend.

Speakers: Kimo Crossman said that he opposes the proposition; that he is concerned about the ability to provide public comment, video capturing of speakers by SFGTV, and the presence of participants at remote locations.

By consensus of the Task Force the Education, Outreach and Training Committee will calendar this item for further discussion and report back to the full Task Force.

2. Discussion re: the Sunshine implications of Proposition D.

Speakers: Kimo Crossman expressed concern about the City not disclosing private information

Allen Grossman said that this proposition does not pass the Prop 59 test.

Robert Reinhart said that he does not agree that a persons private information be provided until they request otherwise.

Deputy City Attorney Sanchez was asked to review Proposition D, Proposition 59, and Section 67.36 for conflicts.

Continued to the next meeting, without objection.

3. Approval of minutes of October 24, 2006

Speakers: Kimo Crossman said that the minutes should reflect his statement that the Administrator is not full Time.

Allen Grossman alleged that the link to the minutes on the web is showing the Compliance and Amendments Committee Minutes.

Motion to approve minutes of October 24, 2006. (Pilpel / Knee)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Chan, Goldman

Absent: Wolfe

Excused Absent: Vongs, Williams

4. Report from Complaint Committee meeting of October 10, 2006, and November 14, 2006.

Member Cauthen made the report

Speakers: None

06018 Recommendation to accept jurisdiction of complaint filed by Daisy Anarchy against the Entertainment Commission for alleged improper meeting notice, failure to post meeting agendas and minutes, and failure to allow public comment.

Speakers: None

Previously continued by agreement of both parties.

06019 Recommendation to accept jurisdiction of complaint filed by San Francisco Survival Manual or behalf of Dr. Wayne Lanier against the Mayor's Officer for alleged failure to provide requested

records and to respond in a timely manner.

Speakers: None

Motion to accept jurisdiction. (Knee / Craven)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Chan, Goldman

Absent: Wolfe

Excused Absent: Vongs, Williams

5. 06017 Public hearing, complaint filed by Michael Petrelis against the Department of Public Health-Community Advisory Board for alleged failure to post meeting notices and agendas on the web and local publications, and failure to post agendas and minutes of its meetings.

Speakers: Michael Petrelis, Complainant; Matthew Florence, Department of Public Health; Robert Reinhard, CAB Member

David Bidwell said CAB is not connected to the City and has nothing to do with public policy; that information they collect is personal and confidential.

Kimo Crossman said that there should be a way to accommodate the complainant without identifying the parties.

Gavin Hall said that the CAB is not dealing with City funds.

Motion to dismiss. (Knee / Goldman)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Chan, Goldman

Absent: Wolfe

Excused Absent: Vongs, Williams

6. 06018 Public hearing, complaint filed by Daisy Anarchy against the Entertainment Commission for alleged improper meeting notice, failure to post meeting agendas and minutes, and failure to allow public comment.

Previously continued.

7. 06019 Public Hearing, complaint filed by San Francisco Survival Manual on behalf of Dr. Wayne Lanier against the Mayor's Officer for alleged failure to provide requested records and to respond in a timely manner.

Speakers: Dr. Wayne Lanier, Complainant requested a continuance to review documents provided by the Mayor's Office; Joe Arrellano, Mayors Office said that he is not opposed to a continuance.

Chair Comstock informed the Task Force that he is Vice President of PROSF but it will not col his ability to hear the complaint.

Member Pilpel express concerns about a possible conflict due to Chair Comstocks position wit

PROSF.

Chair Comstock voluntary recused himself.

Motion to consider the voluntary recusal of Chair Comstock (Cauthen / Comstock)

Ayes: Craven, Comstock, Pilpel, Chan, Goldman

Noes: Knee, Cauthen, Chu

Absent: Wolfe

Excused Absent: Vongs, Williams

Kimo Crossman supports a continuance since information was provided at the last minute.

Christian Holmer supports a continuance since they only just received the document.

Allen Grossman said that the three page letter from Mr. Arrellano was just handed out before the meeting and has legal issues which can't be responded to with the short notice.

Motion to continue until the next meeting. (Knee / Cauthen)

Ayes: Craven, Knee, Cauthen, Chan, Goldman

Noes: Chu, Pilpel

Recused: Comstock

Absent: Wolfe

Excused Absent: Vongs, Williams

8. Report: Compliance and Amendments Committee: meeting of November 15, 2006.

Member Knee made the report. He stated that he wrote a letter, by consensus of the Committee, to the Board of Supervisors Rules Committee in response their directive regarding review of vexatious and voluminous request, and cost.

Speakers: Kimo Crossman said that the issue regarding vexatious request should apply to departments who don't provide records; that if there is a hearing to discuss the matter that departments and the public get equal time to discuss the matter; that he has information from other jurisdictions on this matter that he will send to the Task Force.

Allen Grossman said that the vexatious issue is a form of swift boating that would go away if departments responded as required under the law.

9. Report from Education, Outreach and Training Committee: meeting of November 9, 2006.

Member Pilpel made the report

Speakers: None

10. Continued resolution supporting the right of journalists to protect source identities and to keep

possession of unpublished/unaired materials; echoing the resolution of the Board of Supervisors in support of freelance blogger/videographer Joshua Wolf; and urging the Board and the Mayor to express to San Francisco's U.S. Senate and House representatives their support of shield law legislation S.2831 and H.R. 3233, that are under consideration in Congress.

Speakers: Kimo Crossman said that he supports the resolution.

Member Pilpel said that the resolution was not within the scope of the Task Force.

Resolution supporting the right of journalists to protect source identities and to keep possession of unpublished/unaired materials; echoing the resolution of the Board of Supervisors in support of freelance blogger/videographer Joshua Wolf; and urging the Board and the Mayor to express to San Francisco's U.S. Senate and House representatives their support of Federal shield law legislation. (Knee / Goldman)

Ayes: Craven, Knee, Cauthen, Comstock, Chan, Goldman

Noes: Chu, Pilpel

Absent: Wolfe

Excused Absent: Vongs, Williams

By consensus of the Task Force, a copy of this resolution is to be sent to the Board of Supervisors and Mayor.

11. Discussion re: Should the Task Force refer to the Ethics Commission, for violation, the names of Departments that don't attend meetings of the full Task Force or Committees as required under Section 67.21 (e) of the Ordinance.

Speakers: Kimo Crossman suggested that a letter be written to Departments explaining that they maybe in official misconduct if not represented. He urged Task Force members who have never made a Public Records Request to file a anonymous request to the Mayor's Office of Communication to see how they are treated.

Pilpel suggested that a generic letter be written which says, "Dear Department Head. Your authorized representative did not attend a committee/full meeting of the Task Force to address the complaint. The Task Force takes complaints seriously both from the complainant and evidence that the City might provide. This is your first warning/notice that continued failure to appear at future hearings may require/suggest to us to refer this matter to the Ethics Commission. You certainly are aware of your obligations as part of the Annual Sunshine training that you've certified that you've attended. This too is a requirement. We expect you to send an authorized representative in the future as things come up." He said that the Task Force should use its discretion in determining when to send the letter.

Chair Comstock, asked the Administrator to also include in his hearing notice to departments that they should contact the Administrator if they cannot attend.

No action taken.

12. Directive from the Rules Committee of the Board of Supervisors that the Task Force identify the cost to City departments for complying with the Sunshine Ordinance, and to provide a report to the Rules Committee.

Speakers: Reginald Forest the Task Force should ask why an audit is needed because the co:

would be argumentative.

Kimo Crossman said that when people don't like the most assertive use of Open Government laws that cost becomes their most common complaint. He cited section 67.26 and said that the Rules Committee should be asked why it wants this information; that request is just the cost of open government.

No action taken.

13. Discussion re: Adopting of policy regarding member's attendance at meetings.

The Task Force discussed the draft policy and made suggested changes.

Speakers: Kimo Crossman expressed concerns re partial attendance at meetings; that there is conflicting language in the policy and by-laws re: 3 meetings vs. 3 consecutive meetings.

Motion to adopt the draft policy (Pilpel / Comstock)

Ayes: Craven, Knee, Chu, Comstock, Pilpel, Wolfe, Chan, Goldman

Absent: Cauthen

Excused Absent: Vongs, Williams

Chair Comstock suggested that full attendance shall mean that members are present at the beginning and end of the meeting.

Member Wolfe agreed to schedule a Rules Committee meeting to compare the language in the attendance policy to the Task Force's by-laws and report back to the Task Force.

14. Discussion re: Motion submitted to the Rules Committee of the Board of Supervisors, regarding its policy on electronic records.

Motion that a letter be written to the Board of Supervisors Rules Committee stating the following:

The Task Force feels that under Section 67.30 (c) that the Task Force is obligated to give its advice to the Board of Supervisors regarding its implementation of the Sunshine Ordinance. We have found in three instances that not providing records in their native electronic format, when requested, is a violation of the Sunshine Ordinance and CPRA. Therefore we offer this advice to the Board of Supervisors that not providing records in the original form when so requested is a violation under the Sunshine Ordinance and the California Public Records Act. We request that you reject the motion as written. (Comstock / Pilpel)

Ayes: Craven, Knee, Chu, Comstock, Pilpel, Wolfe, Chan, Goldman

Absent: Cauthen

Excused Absent: Vongs, Williams

Speakers: Kimo Crossman suggested that the letter by the Task Force express to the Board that it is not appropriate to obstruct access to records, and that the motion be rejected as written.

15. Discussion re: Should the December 26, 2006 meeting of the full Task Force be rescheduled?

Speakers: Kimo Crossman asked that the Task Force's decision be e-mailed to him.

Chair Comstock, by consensus of the Task Force, asked the Administrator to schedule a Special meeting for December 19 or 20; that the agenda will contain the two complaints that were continued and two complaints from the December 12, Complaint Committee who agree to an expedited hearing – provided that support documents are submitted by close of business on Wednesday, December 13. The January 9, 2007 Complaint Committee meeting is to be rescheduled for 3 PM, and a Special Task Force meeting be scheduled for 4 PM.

16. Administrator's Report.

The Administrator made the report.

Speakers: Kimo Crossman alleged that the Administrator is not a full time position and said that he has filed a complaint; that the Administrator should work with the Supervisor of Records to get the annual report; that he will file a IDR for DCA Llorente's copy of an advice letter in Word

Member Pilpel asked the Administrator to identify in future reports how many items are with the District Attorney. He asked that the Task Force be provided with current SOTF performance measures.

Chair Comstock asked the Administrator to provided the current Statement of Incompatible Activities from the Ethics Commission.

17. Public comment for items not listed on the agenda.

Speakers: Allen Grossman said that since there is a 72 hour deadline for meeting agendas the notion that a City department says that they could not get the documents in on time is an attitudinal problem.

Kimo Crossman said that the meeting packet shows other departments providing calendar information in advance.

18. Announcements, questions, and future agenda items from the Task Force.

Speakers: None

Member Knee informed the Task Force of the "Stand of for Journalism" event scheduled for December 11, 2006; that information is available at www.savejournalism.org.

Member Pilpel asked that the Supervisor of Records report be scheduled for the next Task Force meeting. May schedule a discussion at the EOT Committee re: how open the Police Commissions hearings are and access to information regarding Officer misconduct cases.

Member Wolfe reminded Members to complete the online Ethics training before the end of the year if they have not already done so.

Adjournment

The meeting was adjourned at 7:47 p.m.

This meeting has been audio recorded and is on file in the Office of the Sunshine Ordinance Task Force.




[sfgov](#) | [residents](#) | [business](#) | [government](#) | [visitors](#) | [online services](#) | [search](#)
[Home](#) >> [Sunshine Meeting Index](#) >> [Sunshine Ordinance Task Force](#)
[Request Supervisors](#)

Sunshine Ordinance Task Force

December 20, 2006

DOCUMENTS DEPT.

DEC 15 2006

SAN FRANCISCO
PUBLIC LIBRARY

12-15-06 10:00 AM

SUNSHINE ORDINANCE TASK FORCE AGENDA

Wednesday, December 20, 2006
4:00 p.m., City Hall, Room 408

Task Force Members

Seat 1	Erica Craven (Vice Chair)	Seat 8	Bruce Wolfe
Seat 2	Richard Knee	Seat 9	Hanley Chan
Seat 3	Sue Cauthen	Seat 10	Nick Goldman
Seat 4	Pueng Vongs	Seat 11	Marjorie Ann Williams
Seat 5	Kristin Chu		
Seat 6	Doug Comstock (Chair)	Ex-officio	Gloria Young
Seat 7	David Pilpel	Ex-officio	Vacant

Note: Each item on the Agenda may include minutes, department or agency letters and reports; Task Force reports; and public correspondence. These items will be available for review at City Hall, Sunshine Ordinance Task Force, Room 244.

Call to Order; Roll Call; Agenda Changes

- Discussion re: the Sunshine implications of Proposition D (discussion and possible action) (20 min) (attachment)
- Supervisor of Public Records Report (Dorji Roberts) (discussion and possible action) (10 minutes) (attachment)
- Approval of minutes of November 28, 2006. (action item) (10 minutes) (attachment)
- Report from Complaint Committee meeting of October 10, 2006, and December 12, 2006. (Sue Cauthen) (action item) (10 min) (attachment)

06018/06023 Recommendation to accept jurisdiction of combined complaints filed by Daisy Anarchy and Hima B. against the Entertainment Commission for alleged failure to allow attendance at a public meeting, improper meeting notice, failure to post meeting agendas and minutes, and failure to allow public comment.

06026 Recommendation to accept jurisdiction of complaint filed by Kimo Crossman against the

Clerk of the Board of Supervisors for alleged failure to provide public record in original electronic format requested, and not providing a legal reason.

- 06029 Recommendation to accept jurisdiction of complaint filed by Kimo Crossman against the Sunshine Ordinance Task Force Administrator and the Clerk of the Board of Supervisors alleging that the Administrator is not a full time position.
5. 06018/06023 Public Hearing, on the combined complaints filed by Daisy Anarchy and Hima B. against the Entertainment Commission for alleged failure to allow attendance at a public meeting, improper meeting notice, failure to post meeting agendas and minutes, and failure to allow public comment. (action item) (attachment)
6. 06019 Continued Public Hearing, complaint filed by San Francisco Survival Manual on behalf of Dr Wayne Lanier against the Mayor's Officer for alleged failure to provide requested records ar to respond in a timely manner. (action item) (attachment)
7. 06026 Public Hearing, complaint filed by Kimo Crossman against the Clerk of the Board of Supervisors for alleged failure to provide public record in original electronic format requester and not providing a legal reason. (action item) (attachment)
8. 06029 Public Hearing, complaint filed by Kimo Crossman against the Sunshine Ordinance Task Force Administrator and the Clerk of the Board of Supervisors alleging that the Administrator is not a full time position. (action item) (attachment)
9. Report: Compliance and Amendments Committee: meeting of December 11, 2006. (Richard Knee). (discussion and possible action) (5 min) (attachment)
10. Administrator's Report. (discussion and possible action item) (5 minutes) (attachment)
11. Public comment for items not listed on the agenda. Public comment to be held at 5:00 p.m., or as soon thereafter as possible. (no action item) (12 min)
12. Announcements, questions, and future agenda items from the Task Force. (no action item) (min) (no attachment)

Adjournment

Next Special Meeting January 9, 2006

**THE AGENDA PACKET IS AVAILABLE FOR REVIEW MONDAY THROUGH FRIDAY
AT CITY HALL, ROOM 244**

SUNSHINE ORDINANCE TASK FORCE HEARING PROCEDURES

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations. Any person speaking during a public comment period may supply a brief written summary of their comments, which shall, if no more than 150 words, be included in the minutes. (Section 67.16)

Each member of the public who is unable to attend the public meeting or hearing may submit to the City, by the time the proceeding begins, written comments regarding the subject of the meeting or hearing; these comments will be made a part of the official public record. (Section 67.7-1 (c))

- | | |
|--|----------------------|
| 1. Complainant presents his/her facts and evidence | 5 minutes |
| Other parties present facts and evidence | Up to 3 minutes each |
| 2. City responds | 5 minutes |
| Other parties of City respond | Up to 3 minutes each |

Above total speaking time for Complainant and City to be the same

- | | |
|--|----------------------|
| 3. Complainant presents rebuttal | 3 minutes |
| 4. Public comment | Up to 3 minutes each |
| (Excluding Complainant & City response, witnesses) | |
| 5. Matter is with the Task Force for discussion and deliberation | |
| 6. Vote by Task Force | |

Note: Time must be adhered to, if a speaker is interrupted by questions, the interruption does not count against his/her time.

Disability Access: The hearing room is wheelchair accessible.

Chemical-Based Products: In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals.

Cell phones, pagers and similar sound-producing electronic devices : The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decision in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact Frank Darby by mail to Administrator, Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102-4689; by phone at 415 554 7724; by fax at 415 554 7854; or by email at sof@sfgov.org.

Citizens interested in obtaining a free copy of the Sunshine Ordinance can request a copy from Mr. Darby or by printing Chapter 67 of the San Francisco Administrative Code on the Internet, <http://www.sfgov.org/sunshine/>

Lobbyist Registration & Reporting Requirements

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance (SF Campaign & Governmental Conduct Code Sec. 2.100) to register and report lobbying

activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415 581-2300; fax (415 581-2317); web site: sfgov.org/ethics.


[sfgov](#) | [residents](#) | [business](#) | [government](#) | [visitors](#) | [online services](#) | [search](#)
[Home](#) >> [Sunshine Meeting Index](#) >> [Sunshine Ordinance Task Force](#)

Board of Supervisors

Sunshine Ordinance Task Force

December 20, 2006

SUNSHINE ORDINANCE TASK FORCE

MINUTES

Tuesday, December 20, 2006

4:00 p.m., City Hall, Room 408

Task Force Members

Seat 1	Erica Craven (Vice Chair)	Seat 8	Bruce Wolfe
Seat 2	Richard Knee	Seat 9	Hanley Chan
Seat 3	Sue Cauthen	Seat 10	Nick Goldman
Seat 4	Pueng Vongs	Seat 11	Marjorie Ann Williams
Seat 5	Kristin Chu		
Seat 6	Doug Comstock (Chair)	Ex-officio	Gloria Young
Seat 7	David Pilpel	Ex-officio	Vacant

DOCUMENTS DEPT.

MAR 13 2007

SAN FRANCISCO
PUBLIC LIBRARY

Call to Order The meeting called to order at 4:06 P.M.

Roll Call Present: Craven, Knee, Cauthen (*excused at 8:00*), Vongs, Comstock, Pilpel, Wolfe (*arrived at 4:18*) Chan (*excused at 6:30*), Goldman, Williams

Excused: Chu

Agenda Changes: Item # 11 was heard after item number 3.

Deputy City Attorney: Ernie Llorente

Administrator: Frank Darby

Agenda Changes:

The Task Force, by consensus, agreed to hear item #8 after item #4.

Speaker: Kimo Crossman, Complainant, requested that item 8 be

continued to allow him time to gather more information. Gloria Young, COB, opposed the continuance and requested that if this item is continued that all three of the complaints filed against her be continued to the February 27, 2007 meeting of the Task Force.

Several members objected to continuing the item especially since a special meeting had been scheduled and parties were informed that additional information would be due 24 hours after the Complaint Committee meeting.

Motion to hear the item today. (Pilpel / Craven)

Ayes: Craven, Knee, Pilpel, Wolfe, Chan, Goldman

Noes: Cauthen, Vongs, Comstock, Williams

Excused Absent: Chu

1. Discussion re: the Sunshine implications of Proposition D.

Deputy City Attorney Llorente indicated that Proposition D requires a Court order prior to the release of private information by Contractors; who may sell the information.

Speakers: Kimo Crossman asked that this item be continued until Supervisor Daly can attend.

Member Pilpel asked Deputy City Attorney Llorente to provide a copy of the unpublished opinion "San Diego Reader vs. Superior Court" and a copy of Chapter 12M. He said that he would like to hear from Supervisor Daly on this matter.

Continued, by consensus of the Task Force, until January 23, 2007 meeting of the Task Force to allow for Supervisor Daly or one of his Aides possible attendance.

2. Supervisor of Public Records Report (Dorji Roberts)

Deputy City Attorney Dorji Roberts made the report and indicate that there were only two petitioners, whose complaints he summarized. He stated that the report does not identify petitioners who withdrew their complaints.

Member Pilpel asked DCA Roberts to submit future reports in October of each calendar year.

Speakers: Kimo Crossman said that the Supervisor of Records Report is not complete because it should include withdrawn petitions. He urged the Task Force to request that the report be rewritten and corrected.

Member Craven cited Section 67.21 (h) of the ordinance and believes that withdrawn petitions should be included in the report.

The Chair, by consensus of the Task Force, asked the Administrator to inform DCA Roberts of its request for a

supplemental report that includes all petitions received and their disposition, including withdrawn petitions.

3. Approval of minutes of November 28, 2006

Speakers: Michael Petrelis urged that the Task Force provide more detailed minutes, so that non-attendees can have a better sense of what the HIV-CAB and the Task Force is doing.

Chair Comstock and Member Williams informed Mr. Petrelis of the continued effort to improve the minutes and that the audio tape of the meeting will have a detailed discussion of the meeting.

Kimo Crossman said that although the minutes are better than in the past that they need to be more thorough.

Motion to approve minutes of November 28, 2006 as corrected.
(Pilpel / Cauthen)

Ayes: Craven, Knee, Cauthen, Vongs, Comstock, Pilpel, Wolfe, Chan, Goldman, Williams

Excused Absent: Chu

4. Report from Complaint Committee meeting of October 10, 2006, and November 14, 2006.

Member Cauthen made the report

Speakers: None

06018/06023 Recommendation to accept jurisdiction of complaint filed by Daisy Anarchy and Hima B. against the Entertainment Commission for alleged failure to allow attendance at a public meeting, improper meeting notice, failure to post meeting agendas and minutes, and failure to allow public comment.

Speakers: None

Member Pilpel confirmed that it was a Section 67.30 (c) matter.

Motion to accept jurisdiction. (Cauthen / Goldman)

Ayes: Craven, Knee, Cauthen, Vongs, Comstock, Pilpel, Wolfe, Chan, Goldman, Williams

Excused Absent: Chu

06026 Recommendation to accept jurisdiction of complaint filed by Kimo Crossman against the Clerk of the Board of Supervisors for alleged failure to provide public record in original electronic format requested, and not providing a legal reason.

Speakers: None

Motion to accept jurisdiction. (Cauthen / Knee)

Excused Absent: Chu

06029

Recommendation to accept jurisdiction of complaint filed by Kimo Crossman against the Sunshine Ordinance Task Force Administrator and the Clerk of the Board of Supervisors alleging that the Administrator is not a full time position.

Speakers: Kimo Crossman, Complainant, withdrew the complaint alleging that the Clerk did not provide documents in a timely manner. He said that he would file a new complaint. Gloria Young, Clerk of the Board, said that Mr. Crossman made an Immediate Disclosure Request the day after the December 12, Complaint Committee meeting, which is not related to the current complaint, and that the records that he requested were provided in a timely manner.

Members Wolfe, Cauthen, Williams, and Pilpel expressed their displeasure with the withdrawal saying that they were troubled and frustrated that this item is not moving forward; that Mr. Crossman had agreed to have a special meeting with a limited amount of time to submit support documents; that more consistency is needed.

Member Pilpel stated that he does not agree to the withdrawal and asked if it was possible to vote on it.

DCA Llorente indicated that since the complaint has been withdrawn, the Task Force does not have jurisdiction to discuss it.

5. 06018/06023

Public hearing, complaint filed by Daisy Anarchy and Hima B. against the Entertainment Commission for alleged failure to allow attendance at a public meeting, improper meeting notice, failure to post meeting agendas and minutes, and failure to allow public comment.

Speakers: Daisy Anarchy; Complainant, discussed the violations which she alleged occurred at meetings on May 8, July 5, August 4, and September 13, 2006. Supporters for the Complainant: Maxine Dugon said that she witnessed public comment by the complainant that was being heard in the overflow room during the August 4 meeting being disrupted. Sarah Kennedy stated that she was not allowed to attend the September 13 meeting.

Bob Davis, Director, Entertainment Commission responded that the events on May 8 and July 5, were workshops/seminars and not public meetings; that Ms. Anarchy's public comment was not disrupted on August 4, and the September 13, was conducted by the Mayors office and not the Entertainment Commission.

Kimo Crossman said that the Task Force should find a violation since the meeting was passive and was not properly noticed.

Martin MacIntyre said that he has past experience with the Entertainment Commission not giving sufficient notice of meetings.

Member Pilpel asked that third party comments be included in the packet.

Chair Comstock, by consensus of the Task Force informed the complainant that May 8, and July 5 meetings were passive meetings that did not require agendas or minutes.

The Task Force finds that there is insufficient evidence to find an explicit violation of the Ordinance during the events of August 4, 2006. The Task Force cautions the staff of the Entertainment Commission to be aware that they are responsible not to disrupt the meeting by preventing members of the public from hearing public testimony or to indicate bias toward members of the public, and to conduct meetings in as civil of a manner as possible. (Craven / Pilpel)

Member Wolfe expressed that the overflow room is an extension of the meeting and that any disruption of any of the rooms would constitute a violation of the Brown Act.

Deputy City Attorney Llorente responded that it would be a stretch to claim a violation of the Brown Act since the Commission themselves did not violate the Act. That a notice to the Entertainment Commission regarding actions of its staff is sufficient.

Member Vong notified the Task Force that she knows Fred Crisp; that he is a friend.

Ayes: Craven, Knee, Cauthen, Vongs, Comstock, Pilpel, Goldman, Williams

Noes: Wolfe

Excused Absent: Chu, Chan

Motion finding that the September 13, 2006 meeting was passive and that the Entertainment Commission violated the Ordinance by improperly excluding a member of the public from the meeting, and preventing the meeting from being videotaped (Knee / Cauthen)

Member Pilpel expressed that the violation should be against the Mayor's Office and not the Entertainment Commission.

Ayes: Craven, Knee, Cauthen, Vongs, Comstock, Wolfe, Goldman, Williams

Noes: Pilpel

Excused Absent: Chu, Chan

Member Wolfe stated that a letter should be written to the Mayor's Office notifying them of the events that occurred during the September 13 meeting.

Member Williams said that a strong letter should be written; that the Education, Outreach, and Training Committee should take up this

matter, and that the Task Force should meet with the Mayor.

In response to Chair Comstock's question regarding appropriate language, Deputy City Attorney Llorente suggested the following language: In the course of hearing a complaint regarding the Entertainment Commission we found a violation regarding the Commission. However, we have serious concerns about how the Mayor's Office used the Commission staff to conduct this meeting and ultimately caused certain actions to happen that led to a finding of liability with the Commission staff. This troubles us, and we would like you to appear before the Task Force so that we can have a dialog to understand what occurred, and to hopefully advise you on how this problem can be corrected so that it won't occur in the future. He suggested that the entire packet be sent with the letter to the Mayor's Office.

Chair Comstock, by consensus of the Task Force, said that a letter will be written to the Mayor's Office regarding this issue.

The Chair called for a three-minute recess.

6. 06019

Continued public hearing, complaint filed by San Francisco Survival Manual on behalf of Dr. Wayne Lanier against the Mayor's Officer for alleged failure to provide requested records and to respond in a timely manner.

Member Pilpel suggested that since this is a continued hearing that comments be limited to only new information.

The Chair, by consensus of the Task Force informed the parties that they have three minutes to testify.

Speakers: Dr. Wayne Lanier, Complainant, requested that the Task Force make the eight findings identified on pages 151-152 of the packet. That the public has a right to know whether the Mayor is acting properly or improperly.

Member Pilpel reminded Chair Comstock that he was recused from this matter at the previous hearing.

Chair Comstock voluntarily recused himself.

Joe Arrellano, Mayors Office, cited page 81 of the Good Government Guide regarding best practices; that the Mayor has two calendars and that Mr. Lanier was provided with a copy of the Mayors calendar.

Kimo Crossman said that the Mayor has one calendar and not two. He said provision of Section 6253.9 and Prop 59 were made after Prop G; that future calendar events are public record. He informed the Task Force that Christian Holmer wanted to provide Public Comment via phone.

Vice-Chair Craven, by consensus of the Task Force, stated public comment via phone would not be allowed.

Allen Grossman cited section 67.29-5 and said that there is no

mention of two calendars; that there should be a distinction on the calendar between personal and business events.

Motion finding a violation of section 67.21 for failure to respond in a timely manner. The Task Force further finds that the Ordinance does not require that Calendars be produced in advance, but that they be available within three business days as required in Section 67.29-5; that standing requests are not required to be responded to; that technical solutions regarding the issues pertaining to Lotus Notes should continue to be explored by the Mayor's Office. The Mayor's Office will report to the Compliance and Amendments Committee at their next meeting with respect to the progress on the Lotus Notes issue. (Pilpel / Knee)

Ayes: Craven, Knee, Vongs, Pilpel, Wolfe, Goldman, Williams

Recused: Comstock

Excused Absent: Cauthen, Chu, Chan

Motion requesting that the Mayor's Office of Communication create written guidelines as to how the calendar is created, the content of the calendar (i.e. what's included and excluded), with examples of how they are proposed to be made; that it is the opinion of the Task Force that names of individuals who meet with the Mayor should be redacted as minimally as possible. It is our view that it is the intent of the Ordinance, including Prop G, that such information be provided to the greatest extent possible. (Pilpel / Wolfe)

Amended motion that the Mayor's calendar include the names of constituents who meet with the Mayor and where applicable the entities that they represent; that names of persons meeting with the Mayor be redacted only where absolutely necessary as defined by law. (Knee / Williams)

Ayes: Craven, Knee, Vongs, Wolfe, Goldman, Williams

Noes: Pilpel

Recused: Comstock

Excused Absent: Cauthen, Chu, Chan

Vice Chair Craven, by consensus of the Task Force encouraged the Mayor's Office to write written guidelines regarding its calendar; that a letter will be written regarding the Task Forces decision.

Vice Chair Craven informed Member Wolfe that in October 2006 a member of the Task Force asked the Administrator, without descent, to rotate the voting order as was done by the prior Administrator.

7. 06026

Public hearing, complaint filed by Kimo Crossman against the Clerk of the Board of Supervisors for alleged failure to provide public record in original electronic format requested, and not providing a legal reason.

Speakers: Kimo Crossman, Complainant; Gloria Young, Clerk of the Board.

Martin MacIntyre, in support of the Complainant, said that the Clerk of the Board hides behind the City Attorney advice and that the City Attorney's Office is trying to trump Decisions of the Task Force.

Motion finding a technical violation of Section 67.27 for failure to provide justification for withholding. (Wolfe / Knee)

Ayes: Knee, Vongs, Wolfe, Goldman

Noes: Craven, Comstock, Pilpel, Williams

Excused Absent: Cauthen, Chu, Chan

Motion to dismiss. (Craven / Goldman)

Ayes: Craven, Vongs, Comstock, Pilpel, Goldman, Williams

Noes: Knee, Wolfe

Excused Absent: Cauthen, Chu, Chan

8. 06029 Public hearing, complaint filed by Kimo Crossman against the Sunshine Ordinance Task Force Administrator and the Clerk of the Board of Supervisors alleging that the Administrator is not a full time position.

Previously withdrawn.

9. Report: Compliance and Amendments Committee: meeting of December 11, 2006.

Member Knee made the report.

Speakers: None

10. Administrator's Report.

The Administrator made the report.

Speakers: None

Member Pilpel said that he is not sure that the November 29, 2006 letter to the Board reflects the consensus view of the Task Force. He asked the Administrator to get a copy of the Boards final policy direction regarding the release of their electronic records.

11. Public comment for items not listed on the agenda.

Speakers: None

12. Announcements, questions, and future agenda items from the Task Force.

Speakers: None

Member Williams requested that Member Pipel invite someone from the City Attorney's Office to the Education, Outreach and Training Committee to answer questions. She asked about the status of the Amendments to the Ordinance, and Member Knee gave an update.

Member Wolfe said that he attended the DHS Shelter Grievance CAC. That they did provide adequate public comment. That only one violation was noticed, which was during the meeting a staff person had received a specific communication addressed specifically to each of the CAC members but it was not made available to the public and that he had informed them during public comment that that was a violation of the Ordinance, which they seem to understand. He said that the staff were not clear about their charge.

Member Pipel said that he attended a prior meeting of the Shelter Monitoring Committee and also provided Sunshine guidance. He said that he was notified by concerned individuals that a meeting yesterday of the Taxi Commission Healthcare Working Group wasn't properly noticed, and that a complaint might be filed.

Adjournment The meeting was adjourned at 9:26 p.m.

This meeting has been audio recorded and is on file in the Office of the Sunshine Ordinance Task Force.



Sunshine Ordinance Task Force



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-7724
Fax No. 554-7854
TDD/TTY No. 544-5227

<http://www.sfgov.org/sunshine/>

SUNSHINE ORDINANCE TASK FORCE
Special Meeting
AGENDA

Tuesday, January 9, 2007
4:00 p.m., City Hall, Room 406

DOCUMENTS DEPT.

JAN - 5 2007

Task Force Members

Seat 1 Erica Craven (Vice Chair)
Seat 2 Richard Knee
Seat 3 Sue Cauthen
Seat 4 Pueng Vongs
Seat 5 Kristin Chu
Seat 6 Doug Comstock (Chair)
Seat 7 David Pilpel

Seat 8 Bruce Wolfe
Seat 9 Hanley Chan
Seat 10 Nick Goldman
Seat 11 Marjorie Ann Williams

Ex-officio Gloria Young
Ex-officio Vacant

SAN FRANCISCO
PUBLIC LIBRARY

Note: Each item on the Agenda may include minutes, department or agency letters and reports; Task Force reports; and public correspondence. These items will be available for review at City Hall, Sunshine Ordinance Task Force, Room 244.

Call to Order

Roll Call

Agenda Changes

1. Report from Complaint Committee meeting of December 12, 2006. (Sue Cauthen) (action item) (10 min) (attachment)
- 06022 Recommendation to accept jurisdiction of complaint filed by Michael Petrelis against the Department of Public Health for alleged failure to make minutes available.
- 06024 Recommendation to accept jurisdiction of complaint filed by Michael Petrelis against the Department of Public Health – HIV Prevention Planning Council for alleged failure to allow public comment by not allowing the public to handout documents to Council Members.
- 06027 Recommendation to accept jurisdiction of complaint filed by Kimo Crossman against the Department of Telecommunications and Information Services for alleged failure to provide public record e-mail documents, not minimally redacting information, and untimely response.

2. 06022 Public Hearing, complaint filed by Michael Petrelis against the Department of Public Health for alleged failure to make minutes available. (action item) (30 min) (attachment)
3. 06024 Public Hearing, complaint filed by Michael Petrelis against the Department of Public Health – HIV Prevention Planning Council for alleged failure to allow public comment by not allowing the public to handout documents to Council Members. (action item) (30 min) (attachment)
4. 06027 Public Hearing, complaint filed by Kimo Crossman against the Department of Telecommunications and Information Services for alleged failure to provide public record e-mail documents, not minimally redacting information, and untimely response. (action item) (30 min) (attachment)
5. Public comment for items not listed on the agenda. Public comment to be held at 5:00 p.m., or as soon thereafter as possible. (no action item) (12 min)

Adjournment

Next Meeting January 23, 2007

SUNSHINE ORDINANCE TASK FORCE HEARING PROCEDURES

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations. Any person speaking during a public comment period may supply a brief written summary of their comments, which shall, if no more than 150 words, be included in the minutes. (Section 67.16)

Each member of the public who is unable to attend the public meeting or hearing may submit to the City, by the time the proceeding begins, written comments regarding the subject of the meeting or hearing; these comments will be made a part of the official public record. (Section 67.7-1 (c))

- | | |
|--|----------------------|
| 1. Complainant presents his/her facts and evidence | 5 minutes |
| Other parties present facts and evidence | Up to 3 minutes each |
| 2. City responds | 5 minutes |
| Other parties of City respond | Up to 3 minutes each |

Above total speaking time for Complainant and City to be the same

- | | |
|---|----------------------|
| 3. Complainant presents rebuttal | 3 minutes |
| 4. Public comment
(Excluding Complainant & City response, witnesses) | Up to 3 minutes each |
| 5. Matter is with the Task Force for discussion and deliberation | |
| 6. Vote by Task Force | |

Note: Time must be adhered to, if a speaker is interrupted by questions, the interruption does not count against his/her time.

Disability Access: The hearing room is wheelchair accessible.

Chemical-Based Products: In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals.

Cell phones, pagers and similar sound-producing electronic devices : The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decision in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact Frank Darby by mail to Administrator, Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102-4689; by phone at 415 554 7724; by fax at 415 554 7854; or by email at soff@sfgov.org.

Citizens interested in obtaining a free copy of the Sunshine Ordinance can request a copy from Mr. Darby or by printing Chapter 67 of the San Francisco Administrative Code on the Internet,
<http://www.sfgov.org/sunshine/>

Lobbyist Registration & Reporting Requirements

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance (SF Campaign & Governmental Conduct Code Sec. 2.100) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415 581-2300; fax (415 581-2317); web site: sfgov.org/ethics.




[sfgov](#) | [residents](#) | [business](#) | [government](#) | [visitors](#) | [online services](#) | [search](#)
[Home](#) >> [Sunshine Meeting Index](#) >> [Sunshine Ordinance Task Force](#)

Board of Supervisors

Sunshine Ordinance Task Force

January 9, 2007

SUNSHINE ORDINANCE TASK FORCE

MINUTES

Tuesday, January 9, 2007

4:00 p.m., City Hall, Room 406

Task Force Members

Seat 1	Erica Craven (Vice Chair)	Seat 8	Bruce Wolfe
Seat 2	Richard Knee	Seat 9	Hanley Chan
Seat 3	Sue Cauthen	Seat 10	Nick Goldman
Seat 4	Pueng Vongs	Seat 11	Marjorie Ann Williams
Seat 5	Kristin Chu		
Seat 6	Doug Comstock (Chair)	Ex-officio	Gloria Young
Seat 7	David Pilpel	Ex-officio	Vacant

DOCUMENTS DEPT.

MAR 13 2007

SAN FRANCISCO
PUBLIC LIBRARY

Call to Order The meeting called to order at 4:01 P.M.

Roll Call Present: Craven, Knee, Cauthen, Chu, Comstock,
Pilpel, Wolfe, Goldman,
Excused: Vongs, Williams

Absent: Chan

Agenda Changes: Item # 2 and 3 were continued by agreement of both parties prior to the meeting

Deputy City Attorney: Ernie Llorente**Administrator:** Frank Darby

- Report from Complaint Committee meeting of December 12, 2006.
Member Cauthen made the report

Speakers: None

- 06022 Recommendation to accept jurisdiction of complaint filed by Michael Petrelis against the Department of Public Health for alleged failure to make minutes available.

Continued by agreement of both parties prior to the meeting.

- 06024 Recommendation to accept jurisdiction of complaint filed Michael Petrelis against the Department of Public Health – HIV Prevention Planning Council for alleged failure to allow public comment by not allowing the public to handout documents to Council Members.

Continued by agreement of both parties prior to the meeting.

- 06027 Recommendation to accept jurisdiction of complaint filed by Kimo Crossman against the Department of Telecommunications and Information Services for alleged failure to provide public record e-mail documents, not minimally redacting information, and untimely response.

Speakers: None

Motion to accept jurisdiction. (Cauthen / Knee)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Wolfe, Goldman

Absent: Chan

Excused Absent: Vongs, Williams

2. 06022 Public hearing, complaint filed by Michael Petrelis against the Department of Public Health for alleged failure to make minutes available.

Previously continued by agreement of both parties prior to the meeting.

3. 06024 Public hearing, complaint filed by Michael Petrelis against the Department of Public Health – HIV Prevention Planning Council for alleged failure to allow public comment by not allowing the public to handout documents to Council Members.

Previously continued by agreement of both parties prior to the meeting.

4. 06027 Public hearing, complaint filed by Kimo Crossman against the Department of Telecommunications and Information Services for alleged failure to provide public record e-mail documents, not minimally redacting information, and untimely response.

There was a 10 minute recess to allow time for the Complainants arrival.

Speakers: Ron Vinson, Department of Telecommunications and Information Services requested that this item be continued because

he was not feeling well and because the Complainant isn't present.

Motion to continue. (Pilpel / Wolfe)

Without objection.

5. Public comment for items not listed on the agenda.

Speakers: None

Adjournment

The meeting was adjourned at 4:28 p.m.

This meeting has been audio recorded and is on file in the Office of the Sunshine Ordinance Task Force.



Sunshine Ordinance Task Force



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-7724
Fax No. 554-7854
TDD/TTY No. 544-5227

<http://www.sfgov.org/sunshine/>

**SUNSHINE ORDINANCE TASK FORCE
AGENDA**

Tuesday, January 23, 2007
4:00 p.m., City Hall, Room 408

DOCUMENTS DEPT

JAN 19 2007

SAN FRANCISCO
PUBLIC LIBRARY

Task Force Members

Seat 1	Erica Craven (Vice Chair)	Seat 8	Bruce Wolfe
Seat 2	Richard Knee	Seat 9	Hanley Chan
Seat 3	Sue Cauthen	Seat 10	Nick Goldman
Seat 4	Pueng Vongs	Seat 11	Marjorie Ann Williams
Seat 5	Kristin Chu		
Seat 6	Doug Comstock (Chair)	Ex-officio	Gloria Young
Seat 7	David Pilpel	Ex-officio	Vacant

Note: Each item on the Agenda may include minutes, department or agency letters and reports; Task Force reports; and public correspondence. These items will be available for review at City Hall, Sunshine Ordinance Task Force, Room 244.

Call to Order

Roll Call

Agenda Changes

1. Continued discussion re: the Sunshine implications of Proposition D (discussion and possible action) (10 min) (attachment)
2. Supplemental Supervisor of Public Records Report (Dorji Roberts) (discussion and possible action) (10 minutes)
3. Approval of minutes of December 20, 2006, and January 9, 2007. (action item) (5 min) (attachment)
4. Report from Complaint Committee meeting of December 12, 2006 & January 9, 2007. (Sue Cauthen) (action item) (10 min) (attachment)

06025 Recommendation to accept jurisdiction of complaint filed by Kimo Crossman against the Department of Telecommunications and Information Services for alleged failure to provide documents in original electronic format on a timely basis.

06028 Recommendation to accept jurisdiction of complaint filed by Kimo Crossman against the Sunshine Ordinance Task Force Administrator for alleged illegal redaction of email addresses and filename paths

- 06033 Recommendation to accept jurisdiction of complaint filed by Mary McGuire against the Taxi Commission for alleged violation of Section 67.7-1 for failure to provide 72 hours notice of its meeting on the web and not posting the meeting notice outside of the meeting room.
- 06034 Recommendation to accept jurisdiction of complaint filed by Jason Garza against the Department of Public Health-SF General Hospital for alleged denial of records.
5. 06025 Public Hearing, complaint filed by Kimo Crossman against the Department of Telecommunications and Information Services for alleged failure to provide documents in original electronic format on a timely basis. (action item) (30 min) (attachment)
6. 06027 Public Hearing, complaint filed by Kimo Crossman against the Department of Telecommunications and Information Services for alleged failure to provide public record e-mail documents, not minimally redacting information, and untimely response. (action item) (30 min) (attachment)
7. 06028 Public Hearing, complaint filed by Kimo Crossman against the Sunshine Ordinance Task Force Administrator for alleged illegal redaction of email addresses and filename paths. (action item) (30 min) (attachment)
8. 06033 Public Hearing, complaint filed by Mary McGuire against the Taxi Commission for alleged violation of Section 67.7-1 for failure to provide 72 hours notice of its meeting on the web and not posting the meeting notice outside of the meeting room. (action item) (30 min) (attachment)
9. 06034 Public Hearing, complaint filed by Jason Garza against the Department of Public Health-SF General Hospital for alleged denial of records. (action item) (30 min) (attachment)
10. Report: Compliance and Amendments Committee: meeting of January 8, 2007. (Richard Knee). (discussion and possible action) (5 min) (attachment)
11. Administrator's Report. (discussion and possible action item) (5 minutes) (attachment)
12. Public comment for items not listed on the agenda. Public comment to be held at 5:00 p.m., or as soon thereafter as possible. (no action item) (12 min)
13. Announcements, questions, and future agenda items from the Task Force. (no action item) (5 min) (no attachment)

Adjournment

Next Meeting February 27, 2007

THE AGENDA PACKET IS AVAILABLE FOR REVIEW MONDAY THROUGH FRIDAY AT CITY HALL,
ROOM 244

SUNSHINE ORDINANCE TASK FORCE HEARING PROCEDURES

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations. Any person speaking during a public comment period may supply a brief written summary of their comments, which shall, if no more than 150 words, be included in the minutes. (Section 67.16)

Each member of the public who is unable to attend the public meeting or hearing may submit to the City, by the time the proceeding begins, written comments regarding the subject of the meeting or hearing; these comments will be made a part of the official public record. (Section 67.7-1 (c))

- | | |
|--|----------------------|
| 1. Complainant presents his/her facts and evidence | 5 minutes |
| Other parties present facts and evidence | Up to 3 minutes each |
| 2. City responds | 5 minutes |
| Other parties of City respond | Up to 3 minutes each |
| Above total speaking time for Complainant and City to be the same | |
| 3. Complainant presents rebuttal | 3 minutes |
| 4. Public comment
(Excluding Complainant & City response, witnesses) | Up to 3 minutes each |
| 5. Matter is with the Task Force for discussion and deliberation | |
| 6. Vote by Task Force | |

Note: Time must be adhered to, if a speaker is interrupted by questions, the interruption does not count against his/her time.

Disability Access: The hearing room is wheelchair accessible.

Chemical-Based Products: In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals.

Cell phones, pagers and similar sound-producing electronic devices : The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decision in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact Frank Darby by mail to Administrator, Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102-4689; by phone at 415 554 7724; by fax at 415 554 7854; or by email at sotf@sfgov.org.

Citizens interested in obtaining a free copy of the Sunshine Ordinance can request a copy from Mr. Darby or by printing Chapter 67 of the San Francisco Administrative Code on the Internet, <http://www.sfgov.org/sunshine/>

Lobbyist Registration & Reporting Requirements

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance (SF Campaign & Governmental Conduct Code Sec. 2.100) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415 581-2300; fax (415 581-2317); web site: sfgov.org/ethics.




[sfgov](#) | [residents](#) | [business](#) | [government](#) | [visitors](#) | [online services](#) | [search](#)
[Home](#) >> [Sunshine Meeting Index](#) >> [Sunshine Ordinance Task Force](#)

Board of Supervisors

Sunshine Ordinance Task Force

January 23, 2007

SUNSHINE ORDINANCE TASK FORCE

MINUTES

Tuesday, January 23, 2007

4:00 p.m., City Hall, Room 408

Task Force Members

Seat 1	Erica Craven (Vice Chair)	Seat 8	Bruce Wolfe
Seat 2	Richard Knee	Seat 9	Hanley Chan
Seat 3	Sue Cauthen	Seat 10	Nick Goldman
Seat 4	Pueng Vongs	Seat 11	Marjorie Ann Williams
Seat 5	Kristin Chu		
Seat 6	Doug Comstock (Chair)	Ex-officio	Gloria Young
Seat 7	David Pilpel	Ex-officio	Vacant

DOCUMENTS DEPT.

MAR 13 2007

SAN FRANCISCO
PUBLIC LIBRARY

Call to Order The meeting called to order at 4:02 P.M.

Roll Call Present: Craven, Knee, Cauthen, Vongs, Chu, Comstock, Pilpel, Wolfe (*arrived at 4:05*) Chan (*arrived at 4:45*), Goldman, Williams

Agenda Changes: Items were heard in the following order 3, 4, 8, 12, 9, 5, 6, 10, 11, 13

Deputy City Attorney: Ernie Llorente

Administrator: Frank Darby

Agenda Changes:

Items 1 and 2 were continued.

Mr. Crossman, complainant, requested that item #7 be continued because he needs more time to review the document submitted by the respondent; that the document has complex legal

citations and he only received it three days ago.

Chair Comstock stated that item #7 will be continued.

Frank Darby, respondent, requested that item #7 not be continued. He said that the complaint was continued in November, and that there is documentation in the file proving that Mr. Crossman received the document a week ago. He asked that the Task Force wait until jurisdiction is being considered before determining whether or not to grant a continuance because he has additional concerns to bring to the Task Forces attention.

Chair Comstock asked DCA Llorente to state the Task Forces procedures with regards to a complainant's request for a continuance.

Deputy City Attorney Llorente responded that when both parties agree to a continuance that th continuance is automatic. However, when both parties don't agree then the Task Force decide whether to grant the continuance or to move forward with the complaint. He stated that the Holman v. Superior Court case, which is in the packet, helps frame the issue regarding e-mail addresses.

Member Craven suggested that the issue (Item #7) be discussed at jurisdiction then moved on to the complaint process.

Member Cauthen indicated that Linda Wong, who has taken off from her usual work, was in th audience to clerk the meeting so that Mr. Darby can recuse himself when the item is heard.

Member Pilpel moved the agenda.

Chair Comstock stated that item #7 will not be continued.

Mr. Crossman withdrew his complaint (Item #7) and said that he will resubmit it.

1. Discussion re: the Sunshine implications of Proposition D.

Continued, by consensus of the Task Force.

2. Supervisor of Public Records Report (Dorji Roberts)

Continued, by consensus of the Task Force.

3. Approval of minutes of December 20, 2006, and January 9, 2007.

Speakers: Kimo Crossman said that he is in the process of creating an example of a transcribe meeting that he will provide to the Task Force.

Chair Comstock submitted technical corrections to the Administrator.

Member Pilpel thanked the Administrator for providing a higher level of content in the minutes.

Motion to approve minutes of December 20, 2006. (Pilpel / Goldman)

Without objection.

Motion to approve minutes of January 9, 2007. (Pilpel / Goldman)

Without objection.

4. Report from Complaint Committee meeting of December 12, 2006 and January 9, 2007.
- Member Cauthen made the report
- 06025 Recommendation to accept jurisdiction of complaint filed by Kimo Crossman against the Department of Telecommunications and Information Services for alleged failure to provide documents in original electronic format on a timely basis.
- Speakers: Kimo Crossman, complainant, apologized for not attending the Complaint Committee meeting due to his work schedule; that his request to call in was not granted and that he approves of jurisdiction.
- Motion to accept jurisdiction. (Cauthen / Goldman)
- Without objection.
- 06028 Recommendation to accept jurisdiction of complaint filed by Kimo Crossman against the Sunshine Ordinance Task Force Administrator for alleged illegal redaction of email addresses and filename paths.
- Previously withdrawn.
- 06033 Recommendation to accept jurisdiction of complaint filed by Mary McGuire against the Taxi Commission for alleged violation of Section 67.7-1 for failure to provide 72 hours notice of its meeting on the web and not posting the meeting notice outside of the meeting room.
- Speakers: None.
- Member Pilpel stated that he spoke with Ms. McGuire on the day of the incident, but that he ca be impartial.
- Member Cauthen stated that she knows Ms. Thigpen but that she can be impartial.
- Motion to accept jurisdiction. (Cauthen / Goldman)
- Without objection.
- 06034 Recommendation to accept jurisdiction of complaint filed by Jason Garza against the Department of Public Health-SF General Hospital for alleged denial of records.
- Speakers: Jason Garza requested that untimely response be included as part of his complaint
- Member Pilpel asked DCA Llorente to comment as to whether the Task Force has jurisdiction over medical records.
- DCA Llorente responded that although the Task Force has general jurisdiction to hear the matter there may be laws that may preempt the release of certain records.
- Motion to accept jurisdiction. (Cauthen / Goldman)
- Without objection.
5. 06025 Public Hearing, complaint filed by Kimo Crossman against the Department of Telecommunications and Information Services for alleged failure to provide documents in original electronic format on a timely basis.

Speakers: Kimo Crossman, Complainant: requested that a violation be found for untimely response, failure to provide records and on a rolling basis, and invalid request for an extensor Ron Vinson, Department of Telecommunications and Information Services: stated that they did fail to respond to Mr. Crossman's request in a timely manner by not letting him know that they had no records responsive to his request.

Motion finding a violation of Section 67.21 (b) for failure to respond to a public records request. The department is directed to submit a response to the request within five days of receipt of the Order of Determination.

The Task Force urges the Department of Telecommunications and Information Services to implement a system for tracking Sunshine requests to ensure that requests are responded to in a timely fashion and to seek additional resources to respond to request for records. (Pilpel / Cauthen)

Ayes: Craven, Knee, Cauthen, Vongs, Chu, Comstock, Pilpel, Wolfe, Chan, Goldman, William:

6. 06027 Public Hearing, complaint filed by Kimo Crossman against the Department of Telecommunications and Information Services for alleged failure to provide public record e-mail documents, not minimally redacting information, and untimely response.

Speakers: Kimo Crossman, Complainant: said that DTIS withheld e-mail communications with Earthlink including those that were identified as "trade secret." Ron Vinson, Department of Telecommunications and Information Services: said that all documents have been posted on the Internet.

Motion finding a violation of Section 67.24 (e)(3) for failure to produce all documents, including correspondence and e-mails, exchanged between the Department and Earthlink representatives related to the position of the parties. The Department is directed to submit a response to Mr. Crossman and the Task Force within five days of receipt of this Order of Determination as to whether, subsequent to the request, the correspondence and e-mails that were requested have been posted and made available. If the documents have not been posted the department is directed to make them available to Mr. Crossman. (Craven/Chan)

Ayes: Craven, Knee, Cauthen, Vongs, Chu, Comstock, Wolfe, Chan, Goldman, Williams

Noes: Pilpel

7. 06028 Public Hearing, complaint filed by Kimo Crossman against the Sunshine Ordinance Task Force Administrator for alleged illegal redaction of email addresses and filename paths.

Previously withdrawn.

8. 06033 Public Hearing, complaint filed by Mary McGuire against the Taxi Commission for alleged violation of Section 67.7-1 for failure to provide 72 hours notice of its meeting on the web and not posting the meeting notice outside of the meeting room.

Speakers: Mary McGuire, Complaint said that the agenda was not posted on the web or outside the room; Supporters: Richard Koury said that he could not find the agenda on the web and that it was not posted in a correct or timely manner; Charles Rathbone said that the agenda was not posted outside of the room and that the minutes are not posted.

Jordanna Thigpen, Deputy Director, Taxi Commission, said that the agenda was posted on the web, but not in the correct location; that the agenda was placed on a table inside the hearing room (#201) because posting is not allowed on the wall or door due to the buildings historical requirements. She also said that the minutes are posted.

Public Comment: Kimo Crossman said that posting is important and the department has to consider other posting options.

Luilla Harris said that Ms. Thigpen didn't say when the minutes were posted.

Member Pilpel stated that the Section 67.7 does not require that agenda's be posted outside of the meeting, but in the main Library's Government Center. He said that posting agenda's outside of a meeting room is not a common custom or practice.

Member Craven indicated that posting agenda's outside of the meeting room is a well established practice in the City and although it is not required under the Ordinance, not posting the agenda's outside the meeting room violates the spirit of the Ordinance.

Deputy City Attorney Llorente stated that the requirement that the Libraries Government Information Center receive this information is a separate Administrative Code Section (816), and does not meet the requirement of 67.7 A.

Chair Knee asked DCA Llorente if a violation of Section 67.31 can be found against the Mayor Office although a complaint has not been filed against them?

DCA Llorente responded that it would be a due process issue because the Mayor's Office is not aware of the complaint or had an opportunity to respond.

After lengthy discussion with the Task Force, Ms. Thigpen stated that: 1) for future meetings she will request that room 421 be made available because it has posting capabilities outside of room 2) that she will write a letter to the parties whom she spoke with and the Executive Direction of the Taxi Commission regarding the Task Forces' suggestion for posting agenda's outside the meeting room, and 3) she will ask DTIS about providing another password to access the Content Management System for posting of agenda's.

Motion finding a technical violation of Section 67.7 of the Sunshine Ordinance for failure to post the agenda outside of the Mayor's Office conference room during the subcommittee meeting. The Task Force notes that such failure to post was not willful and that the representative of the Taxi Commission is committed to solving the problem with respect to room 201 by either getting authority from the Mayor's Office to post agendas outside room 201 or moving future subcommittee meetings to a room where posting is available. In addition, the Task Force authorizes the Chair to send a letter to the Mayor expressing our concern regarding the use of room 201, when posting of agendas for Policy Body meetings outside the meeting room is required but apparently not allowed. (Craven / Cauthen)

Ayes: Craven, Knee, Cauthen, Vongs, Chu, Comstock, Wolfe, Goldman, Williams

Noes: Pilpel, Chan

9. 06034

Public Hearing, complaint filed by Jason Garza against the Department of Public Health-SF General Hospital for alleged denial of records.

Speakers: Jason Garza, Complainant: said that the medical screening is not tangible and he should not have to sign a release for his medical records; Bertha Dae, Risk Manager, Department of Public Health: said that documents were provided, but that Mr. Garza must sign for the medical records.

Public Comment: Kimo Crossman said that it's wrong to call someone crazy when they are making a point. (There is no evidence that the Task Force made any statement like this.)

Member Pilpel asked Mr. Garza if he would be willing to go to San Francisco General to sign for release of his Medical Records. Mr. Garza responded that he would die before setting foot in the hospital, however he would sign for the release of the documents.

Motion finding a technical violation of Section 67.21 (b) of the Sunshine Ordinance for failure to respond in a timely manner to the records request. (Craven / Goldman)

Ayes: Craven, Knee, Cauthen, Vongs, Chu, Comstock, Pilpel, Wolfe, Chan, Goldman, William:

10. Report: Compliance and Amendments Committee: meeting of December 11, 2006.

Member Knee made the report. He said that a letter will be written to the Mayor's Office requesting that a representative be sent to the February 12, CAC meeting to discuss their policies and practices regarding formatting and redaction of the Mayor's appointment calendar.

Speakers: None

11. Administrator's Report.

The Administrator made the report.

Speakers: Kimo Crossman said that he is an advocate for digital recording. He urged the Task Force to instruct the Administrator to post digital recordings of Task Force meetings on the web.

12. Public comment for items not listed on the agenda.

Speakers: Kimo Crossman urged the Task Force to review its procedures regarding request for a continuance. He said that he is working to develop a transcription method to take digital recording and convert it to full text; to resolve discrepancies over minutes.

13. Announcements, questions, and future agenda items from the Task Force.

Member Pilpel: Asked if the Task Force could consider developing a policy regarding the withdrawal of complaints by a complainant at the Task Force hearing, especially when they claim that they will refile.

By consensus of the Task Force, this issue was referred to the Rules committee for review and a recommendation under the heading: Proposed rule regarding withdrawal of complaints: how is done and when it is allowed.

Member Pilpel asked if there was a way that the Task Force can be made aware when a Public Records Request is consuming a lot of Departments staff time – opportunities for Departments to come to the Task Force to discuss what's going on apart from the context of a complaint.

Member Wolfe suggested that new methods be developed to rejuvenate and energize departments.

Member Williams said that the Departments are not getting enough training; that they should come to the Task Force and that the Task Force should try to help them work things out.

Member Cauthen said that sometimes the problem is that the right people in the departments are not getting the training.

In response to a question from the Chair regarding calls for advice from Departments the

Administrator stated that representatives of Departments do call in and ask for advice on compliance with Sunshine laws.

Member Chu informed Members that National Sunshine Week is in mid March, and the League of Women Voters is working to put together a forum and urged participation by Members.

Speakers: Kimo Crossman said that if the issue regarding withdrawals are requested the issue regarding continuances should also be discussed.

Adjournment

The meeting was adjourned at 7:24 p.m.

This meeting has been audio recorded and is on file in the Office of the Sunshine Ordinance Task Force.



Sunshine Ordinance Task Force



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-7724
Fax No. 554-7854
TDD/TTY No. 544-5227

<http://www.sfgov.org/sunshine/>

DOCUMENTS DEPT.

SUNSHINE ORDINANCE TASK FORCE

FEB 23 2007

AGENDA

Tuesday, February 27, 2007
4:00 p.m., City Hall, Room 408

SAN FRANCISCO
PUBLIC LIBRARY

02-23-0702:46 PM

Task Force Members

Seat 1	Erica Craven (Vice Chair)	Seat 8	Bruce Wolfe
Seat 2	Richard Knee	Seat 9	Hanley Chan
Seat 3	Sue Cauthen	Seat 10	Nick Goldman
Seat 4	Vacant	Seat 11	Marjorie Ann Williams
Seat 5	Kristin Chu		
Seat 6	Doug Comstock (Chair)	Ex-officio	Gloria Young
Seat 7	David Pilpel	Ex-officio	Vacant

Note: Each item on the Agenda may include minutes, department or agency letters and reports; Task Force reports; and public correspondence. These items will be available for review at City Hall, Sunshine Ordinance Task Force, Room 244.

Call to Order; Roll Call; Agenda Changes

1. Approval of minutes of January 23, 2007. (action item) (5 min) (attachment)
 2. Report from Complaint Committee meeting of December 12, 2006 & February 13, 2007. (Sue Cauthen) (action item) (10 min) (attachment)
- 06022 Determination of jurisdiction of complaint filed by Michael Petrelis against the Department of Public Health for alleged failure to make minutes available. (action item) (attachment)
- 06024 Determination of jurisdiction of complaint filed by Michael Petrelis against the Department of Public Health – HIV Prevention Planning Council for alleged failure to allow public comment and photographing during its meetings. (action item) (attachment)
- 06030 Determination of jurisdiction of complaint filed by Kimo Crossman against the Clerk of the Board of Supervisors alleging a violation by the Department head for deleting e-mail communications advice from the City Attorney. (action item) (attachment)
- 06032 Determination of jurisdiction of complaint filed by Michael Petrelis against the Department of Public Health – HIV Prevention Planning Council for allegedly changing the agenda without advance notice. (action item) (attachment)

- 06035 Determination of jurisdiction of complaint filed by Kimo Crossman against the Sunshine Ordinance Task Force Administrator and the Clerk of the Board alleging that the Administrator is not a full time position. (action item) (attachment)
- 07002A Determination of jurisdiction of complaint filed by Kimo Crossman against the Mayor's Office for alleged failure to allow inspection of the Mayor's Calendar. (action item) (attachment)
- 07002B Determination of jurisdiction of complaint filed by Kimo Crossman against the Mayor's Office for alleged failure to retain correspondence and calendar information. (action item) (attachment)
- 07003 Determination of jurisdiction of complaint filed by Steven Lawrence against the Public Utilities Commission for alleged incomplete production of documents and untimely response. (action item) (attachment)
- 07004 Determination of jurisdiction of complaint filed by Steven Lawrence against the Public Utilities Commission for alleged failure to respond to a records request, not minimally redacting and untimely response. (action item) (attachment)
- 07005/
07007 Determination of jurisdiction of complaint filed by Kimo Crossman against the Department of Telecommunications and Information Services for alleged failure to respond in a timely manner, failure to provide passive meeting notice, failure to provide records, and not incrementally delivering records. (action item) (attachment)
- 07006 Determination of jurisdiction of complaint filed by Kimo Crossman against the Sunshine Ordinance Task Force Administrator for alleged illegal redaction of email addresses and filename paths. (action item) (attachment)
3. 06022 Public Hearing, complaint filed by Michael Petrelis against the Department of Public Health for alleged failure to make minutes available. (action item) (30 min) (attachment)
4. 06024 Public Hearing, complaint filed by Michael Petrelis against the Department of Public Health – HIV Prevention Planning Council for alleged failure to allow public comment and photographing during its meetings. (action item) (30 min) (attachment)
5. 06030 Public Hearing, complaint filed by Kimo Crossman against the Clerk of the Board of Supervisors alleging a violation by the Department head for deleting e-mail communications advice from the City Attorney. (action item) (30 min) (attachment)
6. 06032 Public Hearing, complaint filed by Michael Petrelis against the Department of Public Health – HIV Prevention Planning Council for allegedly changing the agenda without advance notice. (action item) (30 min) (attachment)
7. 06035 Public Hearing, complaint filed by Kimo Crossman against the Sunshine Ordinance Task Force Administrator and the Clerk of the Board alleging that the Administrator is not a full time position. (action item) (30 min) (attachment)

8. 07002A Public Hearing, complaint filed by Kimo Crossman against the Mayor's Office for alleged failure to allow inspection of the Mayor's Calendar. (action item) (30 min) (attachment)
9. 07002B Public Hearing, complaint filed by Kimo Crossman against the Mayor's Office for alleged failure to retain correspondence and calendar information. (action item) (30 min) (attachment)
10. 07003 Public Hearing, complaint filed by Steven Lawrence against the Public Utilities Commission for alleged incomplete production of documents and untimely response. (action item) (30 min) (attachment)
11. 07004 Public Hearing, complaint filed by Steven Lawrence against the Public Utilities Commission for alleged failure to respond to a records request, not minimally redacting and untimely response. (action item) (30 min) (attachment)
12. 07005/
07007 Public Hearing, complaint filed by Kimo Crossman against the Department of Telecommunications and Information Services for alleged failure to respond in a timely manner, failure to provide passive meeting notice, failure to provide records, and not incrementally delivering records. (action item) (30 min) (attachment)
13. 07006 Public Hearing, complaint filed by Kimo Crossman against the Sunshine Ordinance Task Force Administrator for alleged illegal redaction of email addresses and filename paths. (action item) (30 min) (attachment)
14. Report: Compliance and Amendments Committee: meeting of February 12, 2007. (Richard Knee). (discussion and possible action) (5 min) (attachment)
15. 06025 Recommendation from the Compliance and Amendments Committee that Ron Vinson, of the Department of Telecommunications and Information Services, be found in willful misconduct for failure to discharge his duties imposed by the Sunshine Ordinance with respect to Mr. Vinson's failure to respond to the Order of Determination issued by the full Task Force on January 23, 2007 and failure to appear before the Compliance and Amendments Committee; that potential referral, based on that finding, to the Ethics Commission and/or other appropriate body be considered. (discussion and possible action) (15 min) (attachment)
16. 06027 Recommendation from the Compliance and Amendments Committee that Ron Vinson, of the Department of Telecommunications and Information Services, be found in willful misconduct for failure to discharge his duties imposed by the Sunshine Ordinance with respect to the underline complaint, for failure to respond to the Order of Determination issued by the full Task Force on January 23, 2007, and for failure to appear before the Compliance and Amendments Committee; that potential referral, based on that finding, to the Ethics Commission and/or other appropriate body be considered. (discussion and possible action) (15 min) (attachment)

17. Report: Education Outreach and Training Committee: Special meeting of February 26, 2007. (May include recommendation regarding annual Sunshine training.) (David Pilpel). (discussion and possible action) (15 min) (no attachment)
18. Administrator's Report. (discussion) (5 minutes) (attachment)
19. Public comment for items not listed on the agenda. Public comment to be held at 5:00 p.m., or as soon thereafter as possible. (no action item) (12 min)
20. Announcements, questions, and future agenda items from the Task Force. (no action item) (5 min) (no attachment)

Adjournment

Next Meeting March 27, 2007

SUNSHINE ORDINANCE TASK FORCE HEARING PROCEDURES

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations. Any person speaking during a public comment period may supply a brief written summary of their comments, which shall, if no more than 150 words, be included in the minutes. (Section 67.16)

Each member of the public who is unable to attend the public meeting or hearing may submit to the City, by the time the proceeding begins, written comments regarding the subject of the meeting or hearing, these comments will be made a part of the official public record. (Section 67.7-1 (c))

- | | | |
|--|--|----------------------|
| 1. | Complainant presents his/her facts and evidence | 5 minutes |
| | Other parties present facts and evidence | Up to 3 minutes each |
| 2. | City responds | 5 minutes |
| | Other parties of City respond | Up to 3 minutes each |
| Above total speaking time for Complainant and City to be the same | | |
| 3. | Complainant presents rebuttal | 3 minutes |
| 4. | Public comment
(Excluding Complainant & City response, witnesses) | Up to 3 minutes each |
| 5. | Matter is with the Task Force for discussion and deliberation | |
| 6. | Vote by Task Force | |

Note: Time must be adhered to, if a speaker is interrupted by questions, the interruption does not count against his/her time.

Disability Access: The hearing room is wheelchair accessible.

Chemical-Based Products: In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals.

Cell phones, pagers and similar sound-producing electronic devices : The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decision in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact Frank Darby by mail to Administrator, Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102-4689; by phone at 415 554 7724; by fax at 415 554 7854; or by email at sotf@sfgov.org.

Citizens interested in obtaining a free copy of the Sunshine Ordinance can request a copy from Mr. Darby or by printing Chapter 67 of the San Francisco Administrative Code on the Internet, <http://www.sfgov.org/sunshine/>

Lobbyist Registration & Reporting Requirements

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance (SF Campaign & Governmental Conduct Code Sec. 2.100) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415 581-2300; fax (415 581-2317); web site: sfgov.org/ethics.

February 27, 2007

TO: Sunshine Ordinance Task Force

FM: Sue Cauthen for the Complaint Committee

RE: Information to Assist in Drafting Orders of Determination

N.B: Because of the large number of complaints this month, we are providing a list of relevant code sections only. Any records the TF orders produced should be provided in five days. LEGEND: **SO** = Sunshine Ordinance; **CPRA** = Public Records Act; **IDR** = Immediate Disclosure Request

I. (07022) MICHAEL PETRELIS v. DEPARTMENT OF PUBLIC HEALTH HIV PREVENTION PLANNING COUNCIL (HPPC)

ISSUES: HPPC's failure to permit complainant to distribute a document at a meeting or permit a photo journalist to take photographs or remain at the meeting.

BACKGROUND: At its 11/9/06 meeting the HPPC co-chairs prevented Petrelis from disseminating an SF AIDS Foundation IRS tax report showing Foundation official and HPPC member William Bland's salary. Co-chairs said Petrelis needed to get their approval to hand out the material prior to the meeting. Co-chairs would not permit Bay Area Reporter photo-journalist Rich Gerharter to photograph the meeting and ordered him to leave.

Tracey Packer of the Department of Health (DPH) said HPPC requires advance permission to hand out material or photograph meetings. Documents may be placed on the materials table. She said the handout rules are designed to prevent distractions and dissemination of irrelevant material and noted that the ban on photography is intended to protect the privacy of HPPC members and others in attendance, including those who are HIV-positive.

RELEVANT CODE SECTIONS:

SO: 67.3 (definitions of meeting, policy and passive meeting bodies), 67.4 (passive meetings), 67.5 (public meetings open), 67.14 (filming and taking photos at public meetings), 67.15 (testimony at public meetings).

ORDER OF DETERMINATION

The OD shall state whether the TF determines the meeting was a public meeting and whether there has been a violation of the SO or whether the complaint should be dismissed. Application provisions are stated above.

II. (07024) MICHAEL PETRELIS v. DEPARTMENT OF PUBLIC HEALTH (DPH) and the AIDS WORKING GROUP (AWG)

ISSUES: Failure to hold public meetings or post meeting notices, agendas and minutes.

BACKGROUND: Complaint alleges that AWG does not post information about where and when it meets, nor does it publish agendas and minutes. James Loyce, founder of the AWG and deputy director of DPH's Aids Office told the Complaint Committee that AWG is not a public or passive meeting body and is not required to post these documents. He said the year-old body comprises volunteers from four HIV-related groups: the HPPC, the Health Services Planning Council, Providers Network and AIDS office.

RELEVANT CODE SECTIONS:

SO: 67.3 (definitions: meetings, policy and passive meeting bodies), 67.4 & 67.6e (passive meetings), 67.7 (agendas), 67.9a (review of documents during public meeting), 67.21 requests for public records **CPRA:** 6253 & 6253.1 (requests for public records)

ORDER OF DETERMINATION

It shall state whether the TF determines the meeting was public and whether there has been a violation of the applicable sections of the SO and CPRA, stated above, or if the complaint should be dismissed.

III. (07030) CROSSMAN v. CLERK OF THE BOARD

SO: 67.21 produce records; 67.24 non-exempt records; 67.27 justify withholding; 67.29-1 retain records during transition ; 67.29-7 keep correspondence, incl. email;
Admin Code: 8.3 record retention/deletion schedule
CPRA: 6253 record inspection; 6255a justify withholding

IV. (06032) PETRELIS v. DPH/HPPC

SO: 67.7 (agenda requirements)

V. (07035) CROSSMAN v. SOTF ADMINISTRATOR/CLERK OF BOS

See Cauthen memo of DATE. FRANK: INSERT MEMO AND DATE

VI. (07002a) CROSSMAN v. MAYOR'S OFFICE

SO: 67.21 produce records, including electronic records; 67.21-1(b) (1) buy computer system that segregates exempt data; 67.26 redaction; 67.27 justify withholding; 67.29-7 retain records
CPRA: 6253 record requests; 6255 justify withholding

VII. (07002b) CROSSMAN v. MAYOR'S OFFICE

SO: 67.21 produce records; 67.21-1 (b) (1) buy computer system that segregates exempt data; 67.25 IDR; 67.26 redactions; 67.27 justify withholding; 67.29.5 Mayor public calendar "Sunshinable"; 67.29-7 retain records
CPRA: 6253 produce records; 6255 justify withholding

VIII. (07003) STEVEN LAWRENCE v. PUC

SO: 67.21 produce records; 67.24, esp. g-i non-exempt records; 67.27 justify withholding
CPRA: 6253 inspect records; 6255a justify withholding

IX. (07004) STEVE LAWRENCE v. PUBLIC UTILITIES COMMISSION

SO: 67.21 produce records; 67.24 non-exempt records; 67.27 justify withholding;
CPRA: 6253 produce records; 6255a justify non-disclosure

XI. (07005/07007) CROSSMAN v. DTIS

SO: 67.21 produce records, including electronic records; 67.21-1 Sunshine-friendly computer systems; 67.25 IDR; 67.26 minimum withholding
CPRA: 6253.9 electronic records; 6253 produce records; 6255 justify withholding

XI. (07006) (previously 06028) CROSSMAN v. SOTF ADMINISTRATOR

TEXT ONLY:



PRINT:



TEXT SIZE:



DOCUMENTS DEPT

JUN - 9 2008

SAN FRANCISCO
PUBLIC LIBRARY

February 27, 2007

SUNSHINE ORDINANCE TASK FORCE**Tuesday, February 27, 2007****4:00 p.m., City Hall, Room 408****Task Force Members**

Seat 1	Erica Craven (Vice Chair)	Seat 8	Bruce Wolfe
Seat 2	Richard Knee	Seat 9	Hanley Chan
Seat 3	Sue Cauthen	Seat 10	Nick Goldman
Seat 4	Pueng Vongs	Seat 11	Marjorie Ann Williams
Seat 5	Kristin Chu		
Seat 6	Doug Comstock (Chair)	Ex-officio	Gloria Young
Seat 7	David Pilpel	Ex-officio	Vacant

Call to Order The meeting called to order at 4:06 P.M.**Roll Call Present:** Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Chan (out at 7:34), Williams**Absent:** Wolfe**Excused:** Goldman**Agenda Changes:** Items were heard in the following order 1, 2, 5, 7, 13, 3, 19, 4, 6, 10-12, 14-20**Deputy City Attorney:** Ernie Llorente**Administrator:** Frank Darby

Agenda Changes:

The Administrator asked that items #5, 7, and 13 be heard after item number 2.

Chair Comstock, by consensus of the Task Force, changed the order of the agenda as requested.

Kimo Crossman asked that item #5 not be heard unless the Clerk is present. He also asked to continue item #8 and 9.

DCA Llorente, in response to the Chair's question, said that the Department Head is not required to appear, but may designate someone to represent them at the hearing.

Member Craven said, that a person with knowledge has to appear. Regarding requests for a continuance, Member Craven said that members must be cognizant of the City's representatives and the hours that Task Force members spend reviewing the packet. She said, that a request for a continuance should be made in advance and that she is frustrated by requests for continuances that are made during the hearing.

Member Williams concurred with Member Craven and said that there are too many continuances.

Chair Comstock said that a continuance for items #8 and 9 will be considered when the items are before them.

Approval of minutes of January 23, 2007.

Speakers: None.

Motion to approve minutes of January 23, 2007. (Knee / Craven)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Chan, Williams

Absent: Wolfe

Excused: Goldman

Without objection.

Report from Complaint Committee meeting of December 12, 2006 & February 13, 2007.

Member Cauthen made the report.

06022 Determination of jurisdiction of the complaint filed by Michael Petrelis against the Department of Public Health for alleged failure to make minutes available.

Speakers: None.

Motion to accept jurisdiction. (Cauthen / Knee)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Chan, Williams

Absent: Wolfe

Excused: Goldman

06024 Determination of jurisdiction of the complaint filed by Michael Petrelis against the Department of Public Health – HIV Prevention Planning Council for alleged failure to allow public comment and photographing during its meetings.

Speakers: None.

Motion to accept jurisdiction. (Cauthen / Craven)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Chan, Williams

Absent: Wolfe

Excused: Goldman

06030 Determination of jurisdiction of the complaint filed by Kimo Crossman against the Clerk of the Board of Supervisors, alleging a violation by the Department head for deleting e-mail communications from the City Attorney.

Speakers: Kimo Crossman, Complainant, said that he is not in favor of Mr. Darby representing Gloria Young. He also said that without more members present he will have trouble arguing his case and winning with only six votes; that he may request a continuance or withdraw the complaint when the matter comes up. Frank Darby, Records and Information Manager said that due process had been violated because Mr. Crossman sent e-mail correspondence to a majority of the members contrary to the Task Force's complaint procedures. He asked that members disclose any ex-parte communications with Mr. Crossman.

Member Craven said, that regarding compliance with Task Force guidelines, information should be presented to the Administrator in a timely manner for inclusion in the packet, however, the Task Force (TF) in the past, has accepted and considered information that was provided during the hearing or the day before so she doesn't see a problem. Regarding ex

parte communications, Member Craven said that she had responded to an e-mail from Mr. Crossman, and courtesy copied the TF, saying that any e-mails sent to her should also be sent to the TF so that there is a record of her public duties. She said that a member of the public may contact her regarding a matter within her jurisdiction, even a matter heard before the TF; that a Brown Act violation problem arises when members disclose how they may or may not vote on an issue; but there is an appearance of bias if Members have made up their mind, based on information that is not before the whole TF. She said, similarly, a problem arises if Members attempt to use someone like Mr. Crossman as an intermediary to build support for a position on a particular item coming before the TF; but simply contacting a member of the TF about a matter within its jurisdiction that is before them is not a violation; however, it is a violation if a Member conveys their opinion to that person regarding issues that come up before the "adjudicatory" body.

DCA Llorente said that, although not in the Sunshine Ordinance or Brown Act sections, there is a general due process consideration, that all parties involved in the complaint be aware of information that is going to the hearing body; as a matter of due process and fairness, if information from one party is going to a hearing body the other party to the action should be made aware of it.

Member Craven agreed.

Frank Darby, cited Section "C" of the Task Force's Complaint Procedures, regarding when documents may be considered by the Task Force. He said that the procedures were not followed.

Member Craven said that if any member has received other/different information or more information they will use to consider this matter, they should disclose it.

Chair Comstock disclosed, that he received an e-mail but did not open it because the subject referenced a current complaint.

Motion to accept jurisdiction. (Cauthen / Knee)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Chan, Williams

Absent: Wolfe

Excused: Goldman

06032 Determination of jurisdiction of the complaint filed by Michael Petrelis against the Department of Public Health – HIV Prevention Planning Council for allegedly changing the agenda without advance notice.

Speakers: None.

Motion to accept jurisdiction. (Cauthen / Knee)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Chan, Williams

Absent: Wolfe

Excused: Goldman

06035 Determination of jurisdiction of the complaint filed by Kimo Crossman against the Sunshine Ordinance Task Force Administrator and the Clerk of the Board alleging that the Administrator is not a full time position.

Speakers: Kimo Crossman, Complainant said that he will ask for a continuance if there are only eight members present when the matter comes up.

Motion to accept jurisdiction. (Cauthen / Craven)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Chan, Williams

- Absent: Wolfe
Excused: Goldman
- 07002A Determination of jurisdiction of the complaint filed by Kimo Crossman against the Mayor's Office for alleged failure to allow inspection of the Mayor's Calendar.

Chair Comstock asked Mr. Arellano if he agreed to continue items #8 & 9? Mr. Arellano agreed to continue the items.

Chair Comstock continued item #8 & 9, including the discussion regarding jurisdiction, without objection.

Speakers: None.
- 07002B Determination of jurisdiction of the complaint filed by Kimo Crossman against the Mayor's Office for alleged failure to retain correspondence and calendar information.

Speakers: None.

Previously continued.
- 07003 Determination of jurisdiction of the complaint filed by Steven Lawrence against the Public Utilities Commission for alleged incomplete production of documents and untimely response.

Speakers: None.

Motion to accept jurisdiction. (Cauthen / Craven)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Chan, Williams
Absent: Wolfe
Excused: Goldman
- 07004 Determination of jurisdiction of the complaint filed by Steven Lawrence against the Public Utilities Commission for alleged failure to respond to a records request, illegal redactions and untimely response.

Speakers: None.

Motion to accept jurisdiction. (Cauthen / Craven)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Chan, Williams
Absent: Wolfe
Excused: Goldman
- 07005/07007 Determination of jurisdiction of the complaint filed by Kimo Crossman against the Department of Telecommunications and Information Services for alleged failure to respond in a timely manner, failure to provide passive meeting notice, failure to provide records, and not incrementally delivering records.

Speakers: None.

Motion to accept jurisdiction. (Cauthen / Craven)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Chan, Williams
Absent: Wolfe
Excused: Goldman
- 07006 Determination of jurisdiction of the complaint filed by Kimo Crossman against the Sunshine Ordinance Task Force Administrator for alleged illegal redaction of email addresses and filename paths.

Speakers: Kim Crossman said that ex parte communications occurs when a person on a committee conspires outside of a meeting, to form a consensus on a matter; that since he is not a member of the Task Force, he may speak with any Member regarding any matter that he wishes.

Frank Darby, SOTF Administrator referred members to his letter on page 30 of the packet. He said, as previously noted, that ex-parte communications by Mr. Crossman with members outside of the hearing violated due process. He referred to pages 32-35 of the packet, noting that Mr. Crossman indicated that he is interested in "lobbying certain members;" that Mr. Crossman demeans the role and importance of the Task Force, and refused to follow Task Force procedures. Mr. Darby played an audio recording of a CAC meeting during which Members discussed and expressed their opinion about a document given to them by Mr. Crossman regarding the current complaint that he submitted as support documents in member's packets. He asked that members disclose all communications and the nature of such communications with Mr. Crossman regarding this matter.

Kim Crossman asked that the Task Force accept jurisdiction on this matter.

Chair Comstock stated that he did receive the San Diego reader case from Mr. Crossman; that he doesn't have a problem when anyone lobbies him regarding points of law. He said that it would be a different matter if he were being lobbied about a complaint; but regarding Sunshine and the Law, he is eager to talk to anyone.

Member Pilpel asked DCA Llorente if a formal memorandum is needed to clarify the due process issues being raised?

DCA Llorente said that a formal memorandum isn't need. Basic fairness for due process is, that information going before the body should be known to all parties before the body makes a decision; that if one party presents information and the other party is not aware of it, that party is at a disadvantage and has no information to respond to it. He said that due process and fairness are the equal opportunity to have the same information at the same time before the hearing body; that basic due process is that everyone has an equal playing field, in terms of presenting their information, and that everyone is aware of what each of the sides position is, going into a hearing. The basic principle is for both sides to have full discovery on what the other side is doing, and that the hearing body has all the information it needs to make a decision, and that it hasn't received any new information that the other side doesn't know about.

Member Pilpel said that the Task Force makes quasi-judicial determinations; that complainants need to know, that the Task Force is in a decision making capacity, and that due process and fairness provisions do apply at least with regard to complaints. He requested written language on the issue regarding fairness and due process.

Member Craven said that Members need to disclose any discussions relating to a complaint that will be adjudicated by the TF, before voting on it. She said that the purpose is to let people know that you discussed the current issue, what information you received and whether or not you have a bias or made a preconceived determination, and if so to, recuse yourself.

Motion to accept jurisdiction. (Cauthen / Craven)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Williams

Absent: Wolfe

Absent Excused: Chan

Excused: Goldman

Chair Comstock informed the public that they could write a summary of their comments on the back of the speaker cards and that they would be included in the minutes. He also informed the public that Member Vongs seat had been vacated.

Public Hearing, complaint filed by Michael Petrelis against the Department of Public Health for alleged failure to make minutes available.

Member Williams disclosed that she knows the Director Loyce personally but can be fair and impartial.

Speakers: Michael Petrelis, Complainant, said that minutes were not provided and asked that the Task Force make a determination of jurisdiction over the working group; James Loyce, Deputy Director of Health, Department of Public Health (DPH) said that the HIV Health Working Group was not formed by DPH. The DPH does not "convene it, own it or direct it." He said that the working group is not making any decisions for the City regarding funding or any other matters; that the group is planning a process to allow the larger community to discuss what HIV and AIDS services should look like in San Francisco.

Supporters for respondent: Gail Burns, HPPC Co-Chair said that the group is a voluntary group that is not making decisions for the City; Michael Smith, President of HIV Providers Network (HIVPN) said the working group was not initiated by the AIDS office but by HIVPN to create a public planning process and not for the allocation of resources; Susan Strong, Principal of Strong Consulting said she is the facilitator and project organizer for the working group, which does not consistently produce agendas and minutes; that it's a forwarding looking group, trying to respond to the future of HIV and AIDS.

Kimo Crossman said that according to Section 67.3 (c)(5) the term passive meeting body doesn't apply solely to City employees.

Motion finding no violation. (Pilpel / Chan)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Chan, Williams

Absent: Wolfe

Excused: Goldman

Public Hearing, complaint filed by Michael Petrelis against the Department of Public Health – HIV Prevention Planning Council for alleged failure to allow public comment and photographing during its meetings.

Complainant Michael Petrelis said that the issue regarding the photographing was severed at the Complaint Committee meeting since photojournalist Rick Gerharter, from the Bay Area Reporter had filed a separate complaint.

Chair Comstock disclosed that he occasionally hires Rick Gerharter to do photography for him but doesn't feel a need for recusal.

The discussion regarding failure to allow photographing was severed from this complaint by consensus of the Task Force.

Speakers: Michael Petrelis, Complainant said that he was not allowed to hand out an IRS 990 tax return to the council during the meeting. Tracy Packer, Interim Director of HIV Prevention discussed their policy regarding distribution of material. She said, that information could be placed on the public table or submitted through the Co-chairs; that the policy was put in place several years ago to help maintain order in the meetings and to enable the group to comply with Sunshine. Supporters for respondent: Emilie Huriaux, said that public comment is a vital part of their meetings and that relevant material and comments are always provided to them and that she supports the Co-Chairs decision; Gail Burns said that they support and welcome public comment, but must ensure the safety of their council members; Colin Partridge said that the council is clear and open regarding public comment; David Weinman, HPPC Note Taker, said the administration needs the discretion so that they can have orderly meetings.

Kimo Crossman said that the issue regarding whether a person is being disruptive is open to interpretation and is used against people who are saying things that are uncomfortable; that

even a swastika is a political symbol that a person can use during public comment if they wanted to.

Motion finding no violation. (Craven / Chan)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Chan, Williams

Absent: Wolfe

Excused: Goldman

06030

Public Hearing, complaint filed by Kimo Crossman against the Clerk of the Board of Supervisors alleging a violation by the Department head for deleting e-mail communications from the City Attorney.

Speakers: Kimo Crossman said that he didn't want a hearing with only eight members; that to win he needs six votes that he doesn't think he'll have. He said that having eight members hearing the matter would not be a fair consideration. He asked that the matter be continued until more members show up.

Member Craven informed Mr. Crossman that besides the vacancy there was only one more member expected, and that another member was previously excused. She asked that the Task Force not grant a continuance since there is a quorum; that the Task Force grant a continuance until later in the meeting.

Chair Comstock asked for a vote on the request for a continuance from Mr. Crossman.

Ayes: Comstock

Noes: Craven, Knee, Cauthen, Chu, Pilpel, Chan, Williams

Absent: Wolfe

Excused: Goldman

Mr. Crossman said that since the last complaint against the COB resulted in a tie and a loss that he is withdrawing the complaint and that he will resubmit it.

Member Pilpel asked DCA Llorente if the Task Force could do anything regarding the repeated withdrawals during the hearing.

DCA Llorente said that withdrawals need to be addressed in terms of a policy, internal rules, and complaint procedure; that although a party may withdraw a complaint to repeatedly withdraw and file a complaint might become a matter of gamesmanship rather than trying to obtain a proper determination. He said that at some point, the Task Force will need to make some rules as to how many times a person may withdraw, simply because of the politics of the situation rather than the relative merit of the case.

Member Craven said that the issue was previously referred to the Rules Committee.

Member Cauthen said that withdrawals must be reasonable; that withdrawing a complaint because the situation is not optimal is not reasonable.

Member Knee said that Mr. Crossman is making an assumption as to how each of the Members will vote by assuming that he won't get six votes to uphold his complaint; that for Mr. Crossman to assume that Members minds are already made up shows disrespect to the Task Force and he doesn't appreciate it. He informed Mr. Crossman to be aware that his actions could prejudice Members, not to his future complaints but to him personally.

The matter was withdrawn.

06032

Public Hearing, complaint filed by Michael Petrelis against the Department of Public Health – HIV Prevention Planning Council for allegedly changing the agenda without advance notice.

Speakers: Michael Petrelis, Complainant said that CDC project manager Walter Chow was

allowed to speak during the meeting although he was not on the agenda; Tracy Packer, Interim Director of HIV Prevention said that Mr. Chow's visit was not planned and that there was no discussion, questions and answers or decisions made. Support for respondent: Gail Burns said that Mr. Chow only acknowledged the group but made no presentation; David Weinman, Minutes Taker, said that the minutes were separated out only because Mr. Chow's comments were a little longer.

Motion finding no violation. (Chu / Comstock)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Chan, Williams

Absent: Wolfe

Excused: Goldman

06035 Public Hearing, complaint filed by Kimo Crossman against the Sunshine Ordinance Task Force Administrator and the Clerk of the Board alleging that the Administrator is not a full time position.

Speakers: Kimo Crossman withdrew the complaint and said that he will resubmit it because he wanted more members present.

07002A Public Hearing, complaint filed by Kimo Crossman against the Mayor's Office for alleged failure to allow inspection of the Mayor's Calendar.

Speakers: None

Previously Continued

07002B Public Hearing, complaint filed by Kimo Crossman against the Mayor's Office for alleged failure to retain correspondence and calendar information.

Speakers: None

Previously Continued

07003 Public Hearing, complaint filed by Steven Lawrence against the Public Utilities Commission for alleged incomplete production of documents and untimely response.

Speakers: Steven Lawrence said that the matter is resolved and withdrew the complaints (07003 and 07004).

07004 Public Hearing, complaint filed by Steven Lawrence against the Public Utilities Commission for alleged failure to respond to a records request, not minimally redacting and untimely response.

Speakers: None

Previously withdrawn.

07005/07007 Public Hearing, complaint filed by Kimo Crossman against the Department of Telecommunications and Information Services for alleged failure to respond in a timely manner, failure to provide passive meeting notice, failure to provide records, and not incrementally delivering records.

Speakers: Kimo Crossman, Complainant, said that all responsive documents were not been provided and that he doesn't know what's on the two CD's that were provided just prior to the hearing; Ron Vinson, DTIS Respondent said that he provided all responsive documents, which were picked up by Mr. Crossman; that the two CD's that Mr. Crossman received today contain additional e-mail's that were too large to e-mail to him. He said that Mr. Crossman makes numerous and confusing request that make it difficult to determine what he wants.

Member Cauthen said that she also gets confused at the Complaint committee hearing as to what Mr. Crossman wants and that she asked him to provide a concise list. She said that making 20 separate request in a six week period is excessive and is not well organized as Mr.

Crossman can be.

Member Craven said that she's not holding DTIS blameless because additional resources need to be found, however she acknowledge that the request are numerous and many are inappropriate for IDR's. She asked Mr. Crossman if he is able to prioritize his other pending request?

Mr. Crossman responded that he would prioritize his list; that his top request is to receive notice of all passive meetings on Wi Fi.

Motion finding a violation of Section 67.25 for failure to respond in a timely manner. The Department is directed to provide a written response, within 14 days, on the status of the IDR's dated December 8, 2006, December 15, 2006, January 3, 2007, January 8, 2007, and January 18, 2007, that were requested by Mr. Crossman. With respect to the status of the requests the Department is to indicate, what documents were produced, the date documents were produced, or why documents have not been produced, for review by the Compliance and Amendments Committee. If documents have not been produced the Department is instructed to produce the documents within five days after identifying the documents that have not been produced. The Task Force further supports the Department's budget proposal to request funds to hire additional staff to assist with Sunshine matters. (Craven / Knee)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Chan, Williams

Absent: Wolfe

Excused: Goldman

07006 Public Hearing, complaint filed by Kimo Crossman against the Sunshine Ordinance Task Force Administrator for alleged illegal redaction of email addresses and filename paths.

Speakers: Kimo Crossman withdrew the complaint.

Report: Compliance and Amendments Committee: meeting of February 12, 2007.

Member Knee made the report.

Chair Comstock said that the Task Force needs to start reviewing the proposal and asked the Administrator to schedule the Public Meeting portion of the proposed amendments for the next meeting.

Speakers: Kimo Crossman said that the committee is doing a good job and is respectful of public comment. He said that the committee needs to be more assertive with regards to the Mayor's calendar.

06025 Recommendation from the Compliance and Amendments Committee that Ron Vinson, of the Department of Telecommunications and Information Services, be found in willful misconduct for failure to discharge his duties imposed by the Sunshine Ordinance, with respect to Mr. Vinson's failure to respond to the Order of Determination issued by the Task Force on January 23, 2007 and failure to appear before the Compliance and Amendments Committee; that a potential referral, based on that finding be made, to the Ethics Commission and/or other appropriate body be considered.

The Task Force, by consensus, agreed to consider the recommendations for item #15 and #16 simultaneously.

Member Knee asked DCA Llorente to define the three types of misconduct. Deputy City Attorney Llorente said, that nonfeasance is the failure to perform an official duty, misfeasance is the improper performance of an official duty, and malfeasance is the illegal performance of an official duty.

Speakers: Ron Vinson, said that he did not respond in five days as instructed because he was

consulting legal counsel. He said that he didn't attend the meeting because he did not work the day of the meeting.

Kimo Crossman, said that Mr. Vinson was notified of the meeting and understands the process and should be found in official misconduct for trying to delay the process.

Allen Grossman said that when someone has a clearly defined duty and decides not to perform the duties the conduct is willful. He said that Mr. Vinson's alleged inability to respond to numerous requests from Mr. Crossman is not valid because it is not difficult to manage a large number of requests. He said that when a person knows what they are required to do and doesn't do it is a willful decision and does not have to be malicious.

Motion to continue to the next full Task Force meeting. Mr. Vinson is encouraged to bring the Department Head and any knowledgeable person(s) to discuss this matter. (Pilpel / Cauthen)

Ayes: Cauthen, Comstock, Pilpel

Noes: Craven, Knee, Chu, Williams

Absent: Wolfe

Excused: Goldman, Chan

Motion to accept both recommendations and to refer to the Ethics Commission. (Chu / Knee)

Ayes: Craven, Knee, Cauthen, Chu, Comstock,

Noes: Pilpel, Williams

Absent: Wolfe

Excused: Goldman, Chan

The motion failed for lack of 6 votes.

Motion to continue to the next full Task Force meeting. Mr. Vinson is encouraged to bring the Department Head and any knowledgeable person(s) to discuss this matter. (Pilpel / Comstock)

Ayes: Cauthen, Comstock, Pilpel

Noes: Craven, Knee, Chu, Williams

Absent: Wolfe

Excused: Goldman, Chan

06027

Recommendation from the Compliance and Amendments Committee that Ron Vinson, of the Department of Telecommunications and Information Services, be found in willful misconduct for failure to discharge his duties imposed by the Sunshine Ordinance, for failure to respond to the Order of Determination issued by the full Task Force on January 23, 2007, and for failure to appear before the Compliance and Amendments Committee; that a potential referral, based on that finding be made, to the Ethics Commission and/or other appropriate body be considered.

Speakers: None

See action for item number 15.

Report: Education Outreach and Training Committee: Special meeting of February 26, 2007. (May include recommendation regarding annual Sunshine training.)

Member Pilpel distributed a letter with recommendations regarding the annual Sunshine training.

Speakers: Kimo Crossman said that there is not enough public input because the letter is not

in the agenda packet and requested that the matter be continued.

Allen Grossman said that the purpose of the training is to educate lay people on how to respond to requests.

DCA Llorente said that according to Section 67.33 the training isn't open to line staff, only those who must fill an affidavit of financial interest.

Member Craven suggested that the Chair write a letter to the Ethics Commission and City Attorney's Office regarding the annual Sunshine Training on behalf of the Task Force.

Chair Comstock, by consensus of the Task Force, will write a letter to the Ethics Commission and City Attorney's Office regarding their proposed changes to the annual Sunshine Training.

Administrator's Report.

The Administrator made the report.

Speakers: Kimo Crossman urged the Task Force to make the digital audio recording of the meetings available on the Web.

Public comment for items not listed on the agenda.

Speakers: Allen Grossman said that the Task Force is not a quasi-judicial body because unlike a court, they allow public comment and can't enforce their orders; that the Task Force is more advisory than judicial. He said that the Task Force needs to address the matter of the City Attorney authoring letters.

Michael Petrelis said that the Minutes need to be improved and more comprehensive; that too much work is being lost.

Kimo Crossman urged to Task Force to instruct the Administrator to post the digital audio recordings of the meeting on the Web. He alleged that the Administrator allows Task Force members and the COB to submit documents for the packet after the deadline.

Chair Comstock asked the Administrator to post the digital records on the Web.

Member Pilpel stated that a discussion regarding the posting of digital recordings should be discussed in the Rules Committee since it is not on the agenda.

Announcements, questions, and future agenda items from the Task Force.

Chair Comstock reminded members to complete and turn in their Form 700 by March 29, 2007.

Member Pilpel asked Chair Comstock if the Rules Committee could consider a policy for the distribution of e-mails that are addressed to a majority of the members. Chair Comstock authorized the policy consideration by the Rules Committee. He also said that KGO filed a lawsuit against the City regarding the Public Records Act and Sunshine Ordinance regarding MTA-Muni and asked if there is a method for the Task Force to discuss the matter and offer an opinion to the court on the proceeding?

Member Craven said that she doesn't know whether a City Commission has the authority to file an amicus curiae brief.

The meeting was adjourned when the Task Force lost a quorum, as Member Chu left the room.

Speakers: None

Adjournment

The meeting was adjourned at 8:55 p.m.

This meeting has been audio recorded and is on file in the Office of the Sunshine Ordinance Task Force.

Sunshine Ordinance Task Force



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-7724
Fax No. 554-7854
TDD/TTY No. 544-5227

<http://www.sfgov.org/sunshine/>

**SUNSHINE ORDINANCE TASK FORCE
AGENDA**

Tuesday, March 27, 2007
4:00 p.m., City Hall, Room 408

Task Force Members

Seat 1	Erica Craven (Vice Chair)	Seat 8	Bruce Wolfe
Seat 2	Richard Knee	Seat 9	Hanley Chan
Seat 3	Sue Cauthen	Seat 10	Nick Goldman
Seat 4	Vacant	Seat 11	Marjorie Ann Williams
Seat 5	Kristin Chu		
Seat 6	Doug Comstock (Chair)	Ex-officio	Gloria Young
Seat 7	David Pilpel	Ex-officio	Vacant

Note: Each item on the Agenda may include minutes, department or agency letters and reports; Task Force reports; and public correspondence. These items will be available for review at City Hall, Sunshine Ordinance Task Force, Room 244.

Call to Order;

Roll Call;

Agenda Changes

1. Approval of minutes of February 27, 2007. (action item) (5 min) (attachment)
2. Report from Complaint Committee meeting of January 9, 2007, February 13, 2007, and March 13, 2007. (Sue Cauthen) (action item) (10 min) (attachment)
- 06031 Determination of jurisdiction of complaint filed by Cynthia Laird against the Department of Public Health – HIV Prevention Planning Council for alleged failure to allow photographing during its meeting. (action item) (attachment)
- 07001 Determination of jurisdiction of complaint filed by Debra Ward against the Municipal Transportation Agency for alleged failure to provide records requested. (action item) (attachment)
- 07002A Determination of jurisdiction of complaint filed by Kimo Crossman against the Mayor's Office for alleged failure to allow inspection of the Mayor's Calendar. (action item) (attachment)
- 07002B Determination of jurisdiction of complaint filed by Kimo Crossman against the Mayor's Office for alleged failure to retain correspondence and calendar information. (action item) (attachment)

- 07008 Determination of jurisdiction of complaint filed by Kimo Crossman against the Public Utilities Commission for alleged failure to provide requested records, and untimely response. (action item) (attachment)
- 07009 Determination of jurisdiction of complaint filed by Kimo Crossman against the Mayor's Office of Communications for alleged failure to provide requested emails and email addresses, and failure to provide information incrementally. (action item) (attachment)
- 07010 Determination of jurisdiction of complaint filed by Allen Grossman against the City Attorney's Office for alleged failure to respond in a timely manner, failure to provide records request in original electronic format (MS Word), and failure to provide an exact copy of the records requested. (action item) (attachment)
- 07011 Determination of jurisdiction of complaint filed by Kimo Crossman against the Sheriff's Office for alleged failure to provide video records requested. (action item) (attachment)
- 07013 Determination of jurisdiction of complaint filed by Adam Aufdecamp against the Mayor's Office of Communications for alleged failure to respond to an Immediate Disclosure Request. (action item) (attachment)
3. 06031 Public Hearing, complaint filed by Cynthia Laird against the Department of Public Health – HIV Prevention Planning Council for alleged failure to allow photographing during its meeting. (action item) (30 min) (attachment)
4. 07001 Public Hearing, complaint filed by Debra Ward against the Municipal Transportation Agency for alleged failure to provide records requested. (action item) (30 min) (attachment)
5. 07002A Public Hearing, complaint filed by Kimo Crossman against the Mayor's Office for alleged failure to allow inspection of the Mayor's Calendar. (action item) (30 min) (attachment)
6. 07002B Public Hearing, complaint filed by Kimo Crossman against the Mayor's Office for alleged failure to retain correspondence and calendar information. (action item) (30 min) (attachment)
7. 07008 Public Hearing, complaint filed by Kimo Crossman against the Public Utilities Commission for alleged failure to provide requested records, and untimely response. (action item) (30 min) (attachment)
8. 07009 Public Hearing, complaint filed by Kimo Crossman against the Mayor's Office of Communications for alleged failure to provide requested emails and email addresses, and failure to provide information incrementally. (action item) (30 min) (attachment)
9. 07010 Public Hearing, complaint filed by Allen Grossman against the City Attorney's Office for alleged failure to respond in a timely manner, failure to provide records request in original electronic format (MS Word), and failure to provide an exact copy of the records requested. (action item) (30 min) (attachment)

10. 07011 Public Hearing, complaint filed by Kimo Crossman against the Sheriff's Office for alleged failure to provide video records requested. (action item) (30 min) (attachment)
11. 07013 Public Hearing, complaint filed by Adam Aufdecamp against the Mayor's Office of Communications for alleged failure to respond to an Immediate Disclosure Request. (action item) (30 min) (attachment)
12. Report: Rules Committee: Meeting of March 12, 2007. (Bruce Wolfe). (discussion and possible action) (5 min) (attachment)
13. Motion adding Sub-Section B. 8. (a) and (b) to the Task Forces Complaint Procedures: (a) A complainant may waive the 45 day rule and a postponement shall be allowed. Should the complainant again wish to postpone, it shall be by a majority vote of the Task Force.
(b) A respondent may request a postponement but it shall be approved upon the majority vote of the Task Force. (discussion and possible action) (15 min) (no attachment)
14. Report: Compliance and Amendments Committee: meeting of March 14, 2007. (Richard Knee). (discussion and possible action) (5 min) (attachment)
15. 07005 The Compliance and Amendments Committee has referred to the Task Force
& the Determination of whether the Department of Telecommunications and
07007 Information Services have fully complied with the Order of Determination of February 27, 2007. (discussion and possible action) (15 min) (attachment)
16. Possible amendments to Sections 67.1 to 67.17 of the Sunshine Ordinance and subsequent sections as time permits. (discussion and possible action item) (attachment)

(a.) Sec 67.1 Findings and Purpose.
(b.) Sec. 67.2 Citation.
(c.) Sec 67.3 Definitions.
(d.) Sec 67.4 Passive Meetings.
(e.) Sec 67.5 Meetings to Be Open and Public; Application of Brown Act.
(f.) Sec 67.6 Conduct of Business; Time and Place for Meetings.
(g.) Sec 67.7 Agenda Requirement; Regular Meetings.
17. Administrator's Report. (discussion) (5 minutes) (attachment)
18. Public comment for items not listed on the agenda. Public comment to be held at 5:00 p.m., or as soon thereafter as possible. (no action item) (12 min)
19. Announcements, questions, and future agenda items from the Task Force. (no action item) (5 min) (no attachment)

Adjournment

Next Meeting April 24, 2007

SUNSHINE ORDINANCE TASK FORCE HEARING PROCEDURES

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations. Any person speaking during a public comment period may supply a brief written summary of their comments, which shall, if no more than 150 words, be included in the minutes. (Section 67.16)

Each member of the public who is unable to attend the public meeting or hearing may submit to the City, by the time the proceeding begins, written comments regarding the subject of the meeting or hearing; these comments will be made a part of the official public record. (Section 67.7-1 (c))

- | | |
|--|----------------------|
| 1. Complainant presents his/her facts and evidence | 5 minutes |
| Other parties present facts and evidence | Up to 3 minutes each |
| 2. City responds | 5 minutes |
| Other parties of City respond | Up to 3 minutes each |

Above total speaking time for Complainant and City to be the same

- | | |
|---|----------------------|
| 3. Complainant presents rebuttal | 3 minutes |
| 4. Public comment
(Excluding Complainant & City response, witnesses) | Up to 3 minutes each |
| 5. Matter is with the Task Force for discussion and deliberation | |
| 6. Vote by Task Force | |

Note: Time must be adhered to, if a speaker is interrupted by questions, the interruption does not count against his/her time.

Disability Access: The hearing room is wheelchair accessible.

Chemical-Based Products: In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals.

Cell phones, pagers and similar sound-producing electronic devices: The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decision in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact Frank Darby by mail to Administrator, Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102-4689; by phone at 415 554 7724; by fax at 415 554 7854; or by email at sotf@sfgov.org.

Citizens interested in obtaining a free copy of the Sunshine Ordinance can request a copy from Mr. Darby or by printing Chapter 67 of the San Francisco Administrative Code on the Internet, <http://www.sfgov.org/sunshine/>

Lobbyist Registration & Reporting Requirements

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance (SF Campaign & Governmental Conduct Code Sec. 2.100) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415 581-2300; fax (415 581-2317); web site: sfgov.org/ethics.

TEXT ONLY:



PRINT:



TEXT SIZE:



March 27, 2007

DOCUMENTS DEPT.

JUN - 9 2008

SAN FRANCISCO
PUBLIC LIBRARY

SUNSHINE ORDINANCE TASK FORCE

MINUTES

Tuesday, March 27, 2007

4:00 p.m., City Hall, Room 408

Task Force Members

Seat 1	Erica Craven (Vice Chair)	Seat 8	Bruce Wolfe
Seat 2	Richard Knee	Seat 9	Hanley Chan
Seat 3	Sue Cauthen	Seat 10	Nick Goldman
Seat 4	Vacant	Seat 11	Marjorie Ann Williams
Seat 5	Kristin Chu		
Seat 6	Doug Comstock (Chair)	Ex-officio	Gloria Young
Seat 7	David Pilpel	Ex-officio	Vacant

Call to Order The meeting called to order at 4:02 P.M.

Roll Call Present: Craven, Knee, Cauthen, Chu (out at 10:08), Comstock, Pilpel (arrived 4:05), Wolfe (arrived at 4:10), Chan (out at 7:34), Goldman

Excused: Williams

Agenda Changes: Items were heard in the following order 1-3, 18, 4-5, 15, 6-7, 9, 8, 10-14, 16-17, 19

Deputy City Attorney: Ernie Llorente

Administrator: Frank Darby

Agenda Changes:

Administrator Darby informed Members that Cynthia Laird may not be available until 4:30 for item #3, and that Ron Vinson had been out of state and may not be available for item #15.

Kimo Crossman asked to continue item #10 so that he could have more time to view the document from James Harrigan.

Member Craven said that she supports continuing this matter because the packet does not contain the Sheriff's Office response.

Chair Comstock continued item #10, by consensus of the Task Force.

1. Approval of minutes of February 27, 2007.

Speakers: None.

Member Pilpel said that he thought item #17 of the minutes, regarding proposed changes to the annual Sunshine training, would be agendized for today's meeting.

Chair Comstock responded that he was unable to get in contact with Member Pilpel to draft letters to the Ethics Commission and City Attorney's Office. He said the matter would be agendized for the next Task Force meeting.

Member Pilpel asked if the Administrator could ascertain whether a discussion was to be agendized for today's meeting.

Chair Comstock asked the Administrator to make certain that occurs.

Member Cauthen commended the Administrator on the level of detail of the minutes.

Motion to approve minutes of February 27, 2007. (Cauthen / Goldman)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Wolfe, Chan, Goldman

Excused: Williams

Without objection.

2. Report from Complaint Committee meeting of January 9, 2007, February 13, 2007, and March 13, 2007.

Member Cauthen made the report

06031 Determination of jurisdiction of complaint filed by Cynthia Laird against the Department of Public Health – HIV Prevention Planning Council for alleged failure to allow photographing during its meeting.

Chair Comstock asked to be recused since he is a close friend and associate of Mr. Rick Gerharter whom he occasionally hires as a photographer.

Motion to recuse Chair Comstock. (Wolf / Chu)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Wolfe, Chan, Goldman

Excused: Williams

Member Pilpel disclosed that he his friends with Paul Melbostat, who is the legal counsel to the Bay Area Reporter, but can be impartial.

Speakers: None

Motion to accept jurisdiction. (Cauthen / Goldman)

Ayes: Craven, Knee, Cauthen, Chu, Pilpel, Wolfe, Chan, Goldman

Recused: Comstock

Excused: Williams

07001 Determination of jurisdiction of complaint filed by Debra Ward against the Municipal Transportation Agency for alleged failure to provide records requested.

Speakers: None

Member Pilpel disclosed that he knows Ms. Ward and previously served on the MTA-CAC, and presently serves as an alternate on the MTA's TEP-CAC, but that he can be impartial.

Motion to accept jurisdiction. (Cauthen / Goldman)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Wolfe, Chan, Goldman

Excused: Williams

- 07002A Determination of jurisdiction of complaint filed by Kimo Crossman against the Mayor's Office for alleged failure to allow inspection of the Mayor's Calendar.

Speakers: None

Motion to accept jurisdiction. (Cauthen / Knee)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pipel, Wolfe, Chan, Goldman

Excused: Williams

- 07002B Determination of jurisdiction of complaint filed by Kimo Crossman against the Mayor's Office for alleged failure to retain correspondence and calendar information.

Speakers: None

Motion to accept jurisdiction. (Comstock / Goldman)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pipel, Wolfe, Chan, Goldman

Excused: Williams

- 07008 Determination of jurisdiction of complaint filed by Kimo Crossman against the Public Utilities Commission for alleged failure to provide requested records, and untimely response.

Speakers: None

Motion to accept jurisdiction. (Cauthen / Goldman)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pipel, Wolfe, Chan, Goldman

Excused: Williams

- 07009 Determination of jurisdiction of complaint filed by Kimo Crossman against the Mayor's Office of Communications for alleged failure to provide requested emails and email addresses, and failure to provide information incrementally.

Speakers: None

Motion to accept jurisdiction. (Cauthen / Goldman)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pipel, Wolfe, Chan, Goldman

Excused: Williams

- 07010 Determination of jurisdiction of complaint filed by Allen Grossman against the City Attorney's Office for alleged failure to respond in a timely manner, failure to provide records requested in original electronic format (MS Word), and failure to provide an exact copy of the records requested.

Speakers: Allen Grossman said that it was he, not Mr. Dorsey, who requested to review the document on the CAO's computer. Mr. Dorsey said that he met with Mr. Grossman at 10 AM on the 21st to view the document and that Mr. Grossman said that he would withdraw the complaint after the review but did not.

Member Pipel asked the Task Force (TF) to resolve the matter as to whether there is a conflict with DCA Llorente serving as counsel for this item. He said that there is no conflict and doesn't see a need for him to recuse DCA Llorente.

Chair Comstock asked DCA Llorente if the TF can discuss his possible recusal as part of jurisdiction?

DCA Llorente responded that the TF can discuss the matter now or later. He said that he is not hearing the matter; that he is only the TF counsel, and can be impartial.

Allen Grossman said that he objects to DCA Llorente providing legal counsel to the TF on this

compliant since the City Attorney's Office is a party to the complaint. He said that there is a conflict and no legal reason basis for not recusing him.

Kimo Crossman said that DCA Llorente should be recused, since there is a potential conflict. He suggested that Member Craven provide legal counsel to the TF since she is an attorney.

Peter Warfield said that DCA Llorente should be recused for possible actual conflict, appearance of a conflict, and/or out of respect for the complainant.

DCA Llorente said that he has no contact with the Government Team, and that he can represent the TF interest with regard to open government, open meetings and CPRA.

Member Cauthen said that a previous recusal of the TF attorney Jackie Minor was a totally different matter, because she was advising the Department who was a party to the complaint.

Member Wolfe said that if DCA Llorente were recused his advice letters would also need to be considered. He asked Mr. Grossman if he had a problem with the written advice from DCA Llorente?

Mr. Grossman said that he does not have a problem with the advice letters only a slight problem with how DCA Llorente described the violations. He said, that he is not accusing DCA Llorente of anything; that he is only questioning his ability to remain impartial.

Chair Comstock asked DCA Llorente to explain the procedure for his recusal.

DCA Llorente responded that he could recuse himself or the TF can vote to recuse him. He said that he has no basis to recuse himself.

Chair Comstock asked if there was a motion to recuse DCA Llorente. There was no motion for recusal.

Motion to accept jurisdiction. (Cauthen / Goldman)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Wolfe, Chan, Goldman

Excused: Williams

07011 Determination of jurisdiction of complaint filed by Kimo Crossman against the Sheriff's Office for alleged failure to provide video records requested.

Previously continued to the April 24, 2007 Task Force meeting.

07013 Determination of jurisdiction of complaint filed by Adam Aufdecamp against the Mayor's Office of Communications for alleged failure to respond to an Immediate Disclosure Request.

Speakers: None

Motion to accept jurisdiction. (Cauthen / Goldman)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Wolfe, Chan, Goldman

Excused: Williams

3. 06031 Public Hearing, complaint filed by Cynthia Laird against the Department of Public Health – HIV Prevention Planning Council for alleged failure to allow photographing during its meeting.

Speakers: Cynthia Laird, Complainant, said that photography was not disruptive and should have been allowed; that the Council has no expectation of privacy since they choose to participate on a public body. Tracy Packer, Respondent, said that they allow photography, in accordance with their policy, after prior notice has been given. Gail Burns, in support of the Respondent, said they don't object to photography, but notice must be given so that presenters are not harassed.

Kimo Crossman said that there is no expectation of privacy for those who choose to participate; that there should be no restrictions.

Peter Warfield said that prior approval is only an obstruction, which should be removed, and that the

photographer has a right to be present.

Motion finding a violation of Section 67.14 of the Sunshine Ordinance and Section 54953.5 of the Brown Act for failing to allow photography during its meeting. (Knee / Goldman)

Ayes: Craven, Knee, Cauthen, Chu, Pilpel, Wolfe, Chan, Goldman

Recused: Comstock

Excused: Williams

4. 07001 Public Hearing, complaint filed by Debra Ward against the Municipal Transportation Agency for alleged failure to provide records requested.

Speakers: Debra Ward, Complainant, said that she is specifically requesting two emails regarding her request for an alternate work schedule and clarification on the status of her position. She said that the Department is withholding the documents although they are only memoranda and not an invasion of privacy. Allen Grossman, in support of the Complainant, said that Mr. Kennedy's letter is not permitted under the Ordinance; that it is inappropriate and uncalled for and should be removed from the packet. Rumi Ueno, Respondent, said that Ms. Ward was sent the emails on February 14. She said that the disclosure of records requested by Ms. Ward would be an unwarranted invasion of privacy; that the records requested are exempt from disclosure. Micki Callahan, in support of the Respondent, said that Ms. Ward's request was made as a member of the public and disclosure would have a great impact on labor relations. She said that management discusses employee performance and disclosure would hinder that discussion and collective bargaining.

Ms. Ward, in rebuttal, said that the e-mails are not in the personnel file and have no personal information in them. She said that the Department is only shielding their own privacy, which shows how employees are treated when they ask for an accommodation.

Member Pilpel asked Ms. Ueno if employees have access to their personnel file through the collective bargaining process. Ms. Ueno responded that employees have the right to review and typically get a copy of their personnel records.

Motion finding a violation of Section 67.21 of the Sunshine Ordinance for failure to disclose the requested documents, even though Ms. Ward agreed to waive any personnel or privacy exemptions to disclosure that she may otherwise have. (Craven / Pilpel)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Wolfe, Chan, Goldman

Excused: Williams

5. 07002A Public Hearing, complaint filed by Kimo Crossman against the Mayor's Office for alleged failure to allow inspection of the Mayor's Calendar.

Speaker: Kimo Crossman, Complainant, said that the Mayor's Office cited security reasons for not allowing inspection and a copy of the Mayor's calendar in Lotus Notes, which he wanted mailed to him. Joe Arellano, Respondent, said that Mr. Crossman wanted to view the Mayor's calendar in Lotus Notes, which had secure information, which at the time could not be redacted to prevent information that was not subject to disclosure.

Kimo Crossman, said the Mayor did not attempt to secure the information, and that he wanted the calendar in its original format.

Allen Grossman said that the calendar is a public record, which should be made available in its original format.

Peter Warfield said that section 67.29-5 does not mention a Prop G calendar in the Ordinance; that he questions the Mayor's Office inability to copy the information requested into another area of the Lotus Notes calendar for review.

Motion finding no violation on the basis of the request to inspect the Calendar on that particular day. (Craven / Pilpel)

Ayes: Pilpel

Noes: Craven, Knee, Cauthen, Chu, Comstock, Wolfe, Chan, Goldman

Excused: Williams

The motion failed for lack of 6 votes.

Motion to continue the matter to the next Task Force meeting (Pilpel)

The motion failed to receive a second

Motion finding a violation of Section 67.27 of the Sunshine Ordinance for failure to provide specific justification as to why the information will not be subject to inspection. (Wolfe / Craven)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Wolfe, Goldman

Noes: Pilpel

Absent: Chan

Excused: Williams

6. 07002B Public Hearing, complaint filed by Kimo Crossman against the Mayor's Office for alleged failure to retain correspondence and calendar information.

Speaker: Kimo Crossman, Complainant, said that the Mayor's Office is deleting e-mail correspondence and calendar information, which is a violation of CPRA and the Ordinance; he urged the TF to find a violation for not preserving records. Joe Arellano, Respondent, said that the Mayor's Office is in compliance with its Records Retention Schedule.

Kimo Crossman, said the Mayor's office can archive the e-mails rather than delete them.

Peter Warfield, said that the Mayor's Office reason for not retaining e-mail is not valid; that the City can find a way to retain records. He said that section 67.29-7 of the Ordinance requires that records be maintained in a professional manner.

Motion finding a violation of 67.29-7 of the Sunshine Ordinance for failure to preserve records consistent with provisions of the Ordinance. (Craven / Knee)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Wolfe, Goldman

Noes: Pilpel, Chan

Excused: Williams

Motion that the Task Force write a letter to the Mayor expressing concern with the Records Retention policy, and suggest that they follow through on their pledge to find a computer program that retains calendar records longer than five days, and make other improvements to enhance the retention of important documents. Further, that a copy of the letter be sent to Mr. Nathan Ballard and Mr. Joe Arellano of the Mayor's Office and the City Attorney's Office, requesting a response. (Cauthen / Goldman)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Wolfe, Goldman

Noes: Pilpel, Chan

Excused: Williams

7. 07008 Public Hearing, complaint filed by Kimo Crossman against the Public Utilities Commission for alleged failure to provide requested records, and untimely response.

Speakers: Kimo Crossman, Complainant, said that the department did not provide the requested records; that he wants the same level of access to e-mail addresses as the PUC. Allen Grossman, in support of the Complainant, said that the CAO cites a number of cases; that it is not a level playing field for the complainant. He said, that the CAO should not advocate or ghost write for

departments. Tony Winnicker, Respondent, said that the private e-mail addresses of the commissioners should not be disclosed when their public e-mail addresses are available.

Kimo Crossman, in rebuttal, said that there is no justification for the redactions.

Peter Warfield, said that the law doesn't support privacy on this matter; that there are a variety of ways to protect privacy and that an e-mail address is not intrusive.

Motion finding a violation of Section 67.21 Section 67.21 of the Sunshine Ordinance for failure to disclose requested documents identifying Commissioners' personal e-mail addresses to Mr. Crossman. (Craven / Knee)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Wolfe, Chan, Goldman

Noes: Pilpel

Excused: Williams

8. 07009 Public Hearing, complaint filed by Kimo Crossman against the Mayor's Office of Communications for alleged failure to provide requested emails and email addresses, and failure to provide information incrementally.

Speakers: Kimo Crossman, Complainant, said that he requested e-mail addresses of invitations sent to a thousand individuals who were invited to a town hall meeting but no e-mails were provided, only a spreadsheet listing a few people. Joe Arellano said that he provided him with the invitation e-mail; that he sent him everything that he had, including a spreadsheet of the RSVP list.

Kimo Crossman, in rebuttal, said that the Mayor's office obstruction is endless and that he wanted to know who was invited, including their e-mail addresses.

Peter Warfield, asked for the source of the mailing list. He said that the Mayor's office should have a way to produce the documents.

Motion finding a violation of Section 67.21 of the Sunshine Ordinance for failure to provide the requested records. The Task Force urges the Mayor's Office to preserve all records related to a Public Records Request when the request is being reviewed within the Mayor's Office as it appears that the records requested in this Complaint were deleted by employees in the Mayor's Office of Neighborhood Services after the receipt of the Request by the Mayor's Office. (Knee / Wolfe)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Wolfe, Goldman

Noes: Pilpel, Chan

Excused: Williams

9. 07010 Public Hearing, complaint filed by Allen Grossman against the City Attorney's Office (CAO) for alleged failure to respond in a timely manner, failure to provide records requested in original electronic format (MS Word), and failure to provide an exact copy of the records requested.

Speakers: Allen Grossman, Complainant, said that he requested that CAO provide a procedure for preparing, reviewing and vetting published opinions in electronic format; that the CAO sent a PDF redacted version that covered the relevant procedures. He did not receive the document in its original format until last week, which is four and a half months later. Matt Dorsey, Respondent, said that there is no basis for the complaint. They had originally given Mr. Grossman the wrong documents, which resulted in the CAO taking too long to respond to the request. He said that they have since provided all responsive records requested, including allowing Mr. Grossman to view the document on a computer in the CAO.

Kimo Crossman said that the CAO put up obstacles that delayed access to the record requested including making personal attacks on Mr. Grossman; that the CAO should look to assist rather than obstruct.

Peter Warfield, said that personal attacks on Mr. Grossman's character by the CAO are

inappropriate.

Motion finding no violation. (Craven / Knee)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Wolfe, Chan, Goldman

Noes: Comstock

Excused: Williams

10. 07011 Public Hearing, complaint filed by Kimo Crossman against the Sheriff's Office for alleged failure to provide video records requested.
Previously continued.
11. 07013 Public Hearing, complaint filed by Adam Aufdecamp against the Mayor's Office of Communications for alleged failure to respond to an Immediate Disclosure Request.
Continued, without objection.
12. Report: Rules Committee: Meeting of March 12, 2007.
Member Wolfe made the report.
Speakers: Kimo Crossman played a portion of a tape of the Rules Committee meeting and said that the Administrator failed to add the word "simple" before the word majority.
13. Motion adding Sub-Section B. 8. (a) and (b) to the Task Forces Complaint Procedures: (a) A complainant may waive the 45 day rule and a postponement shall be allowed. Should the complainant again wish to postpone, it shall be by a majority vote of the Task Force.
(b) A respondent may request a postponement but it shall be approved upon the majority vote of the Task Force.
Member Wolfe asked that the motion be corrected to add the word "simple" before "majority vote."
Speakers: Peter Warfield urged the Task Force to not act on the motion due to inadequate notice; that it isn't clear where it appears in the procedures. He said that the plaintiff's ability to postpone should not be restricted.
Continued, without objection.
14. Report: Compliance and Amendments Committee: meeting of March 14, 2007.
Member Knee made the report.
Speakers: Kimo Crossman suggested that a letter be written to individuals who have contacted the SOTF office during the last two years to comment on the proposed amendments.
Peter Warfield said that proposed amendments should indicate 1) the change that is made, 2) the reason for the change, and 3) the source of the change. He said that he is dismayed that the letter by Member Knee to the Board of Supervisor does not include outreach to the public.
15. 07005 & 07007 The Compliance and Amendments Committee has referred to the Task Force the Determination of whether the Department of Telecommunications and Information Services have fully complied with the Order of Determination of February 27, 2007.
Member Craven recused herself because Google is a client.
Member Wolfe recused himself because of his personal involvement and activities that involve DTIS in the WiFi matter.
Kimo Crossman, requested that the matter be continued due to the number of voting members remaining, because he doesn't feel he'll get a fair hearing.
Member Knee objected to a continuance. He said, that Mr. Crossman is presupposing the TF votes and is being prejudicial, which he finds very troubling.

Speaker: Kimo Crossman, said that he submitted a summary to DTIS listing ten outstanding issues, but never receive a response until today. He said that he did not get a meeting with Mr. Vinson as agreed. Ron Vinson said that he provided Mr. Crossman with all responsive documents prior to the CAC meeting. He said that he has also responded to Mr. Crossman's ten-item summary of outstanding issues.

Peter Warfield said that it is not fair for complainants to receive documents the day of the meeting for review.

Chair Comstock questioned each party with regards to their response to alleged ten outstanding issues. He said that more time is needed to review the packet of documents provided by DTIS at the CAC meeting.

Motion to refer the matter to the Compliance and Amendments Committee to determine whether the Department of Telecommunications and Information Services have fully complied with the Order of Determination of February 27, 2007. (Comstock/Cauthen)

Ayes: Knee, Cauthen, Chu, Comstock, Chan, Goldman

Noes: Pilpel

Recused: Craven, Wolfe

Excused: Williams

16. Possible amendments to Sections 67.1 to 67.7 of the Sunshine Ordinance and subsequent sections as time permits.
- a. Sec 67.1 Findings and Purpose.
 - b. Sec. 67.2 Citation.
 - c. Sec 67.3 Definitions.
 - d. Sec 67.4 Passive Meetings.
 - e. Sec 67.5 Meetings to Be Open and Public; Application of Brown Act.
 - f. Sec 67.6 Conduct of Business; Time and Place for Meetings.
 - g. Sec 67.7 Agenda Requirement; Regular Meetings.

Continued, by consensus of the Task Force, to the April 10, 2007 special meeting of the Task Force.

17. Administrator's Report.

The Administrator made the report.

Speakers: Kimo Crossman suggested that digital recordings be posted on-line and that proposed amendments be posted on-line in Word format.

Peter Warfield said that the complaint process does not indicate that a complaint form be completed in addition to a letter. He asked that the complaint procedures be revised to clarify the requirement for the form.

18. Public comment for items not listed on the agenda. Public comment to be held at 5:00 p.m., or as soon thereafter as possible.

Speaker: Peter Warfield said that he appreciates the greater level of detail in the minutes. He urged the Task Force to invite, seek out and allow public comment on the proposed amendments to the Ordinance, as was done by letter to the Board of Supervisors.

Kimo Crossman said that the public should be allowed to speak on the proposed amendments; that the Administrator should invite everyone who has contacted his office during the past two years and invite them to the meetings. He said, that he requested tapes of prior meetings but has not received them from the Administrator. He alleged that the CAC asked the Administrator to add an item on the agenda regarding posting original electronic documents, but the discussion was not agendized.

Adjournment

The meeting was adjourned at 10:47 p.m.

This meeting has been audio recorded and is on file in the Office of the Sunshine Ordinance Task Force.

Sunshine Ordinance Task Force



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-7724
Fax No. 554-7854
TDD/TTY No. 544-5227

<http://www.sfgov.org/sunshine/>

**SUNSHINE ORDINANCE TASK FORCE
SPECIAL MEETING**

AGENDA

Tuesday, April 10, 2007
5:30 p.m., City Hall, Room 406

9:05 a.m. mst
DOCUMENTS DEPT.

APR - 6 2007

**SAN FRANCISCO
PUBLIC LIBRARY**

Task Force Members

Seat 1 Erica Craven (Vice Chair)
Seat 2 Richard Knee
Seat 3 Sue Cauthen
Seat 4 Vacant
Seat 5 Kristin Chu
Seat 6 Doug Comstock (Chair)
Seat 7 David Pilpel

Seat 8 Bruce Wolfe
Seat 9 Hanley Chan
Seat 10 Nick Goldman
Seat 11 Marjorie Ann Williams
Ex-officio Gloria Young
Ex-officio Vacant

Note: Each item on the Agenda may include minutes, department or agency letters and reports; Task Force reports; and public correspondence. These items will be available for review at City Hall, Sunshine Ordinance Task Force, Room 244.

Call to Order;

Roll Call;

Agenda Changes

1. Possible amendments to Sections 67.1 to 67.17 of the Sunshine Ordinance and subsequent sections as time permits. (discussion and possible action item) (attachment)
 - (a.) Sec 67.1 Findings and Purpose.
 - (b.) Sec. 67.2 Citation.
 - (c.) Sec 67.3 Definitions.
 - (d.) Sec 67.4 Passive Meetings.
 - (e.) Sec 67.5 Meetings to Be Open and Public; Application of Brown Act.
 - (f.) Sec 67.6 Conduct of Business; Time and Place for Meetings.
 - (g.) Sec 67.7 Agenda Requirement; Regular Meetings.
2. Public comment for items not listed on the agenda. Public comment to be held at 5:00 p.m., or as soon thereafter as possible. (no action item) (12 min)
3. Announcements, questions, and future agenda items from the Task Force. (no action item) (5 min) (no attachment)

Adjournment

SUNSHINE ORDINANCE TASK FORCE HEARING PROCEDURES

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations. Any person speaking during a public comment period may supply a brief written summary of their comments, which shall, if no more than 150 words, be included in the minutes. (Section 67.16)

Each member of the public who is unable to attend the public meeting or hearing may submit to the City, by the time the proceeding begins, written comments regarding the subject of the meeting or hearing; these comments will be made a part of the official public record. (Section 67.7-1 (c))

- | | |
|--|----------------------|
| 1. Complainant presents his/her facts and evidence | 5 minutes |
| Other parties present facts and evidence | Up to 3 minutes each |
| 2. City responds | 5 minutes |
| Other parties of City respond | Up to 3 minutes each |
| Above total speaking time for Complainant and City to be the same | |
| 3. Complainant presents rebuttal | 3 minutes |
| 4. Public comment | Up to 3 minutes each |
| (Excluding Complainant & City response, witnesses) | |
| 5. Matter is with the Task Force for discussion and deliberation | |
| 6. Vote by Task Force | |

Note: Time must be adhered to, if a speaker is interrupted by questions, the interruption does not count against his/her time.

Disability Access: The hearing room is wheelchair accessible.

Chemical-Based Products: In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals.

Cell phones, pagers and similar sound-producing electronic devices: The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decision in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact Frank Darby by mail to Administrator, Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102-4689; by phone at 415 554 7724; by fax at 415 554 7854; or by email at sotf@sfgov.org.

Citizens interested in obtaining a free copy of the Sunshine Ordinance can request a copy from Mr. Darby or by printing Chapter 67 of the San Francisco Administrative Code on the Internet, <http://www.sfgov.org/sunshine/>

Lobbyist Registration & Reporting Requirements

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance (SF Campaign & Governmental Conduct Code Sec. 2.100) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415 581-2300; fax (415 581-2317); web site: sfgov.org/ethics.

Sunshine Ordinance Task Force



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-7724
Fax No. 554-7854
TDD/TTY No. 544-5227

<http://www.sfgov.org/sunshine/>

**SUNSHINE ORDINANCE TASK FORCE
AGENDA**

Tuesday, April 24, 2007
4:00 p.m., City Hall, Room 408

9:55 a.m. MSF
DOCUMENTS DEPT

APR 19 2007

Task Force Members

Seat 1 Erica Craven (Vice Chair)
Seat 2 Richard Knee
Seat 3 Sue Cauthen
Seat 4 Vacant
Seat 5 Kristin Chu
Seat 6 Doug Comstock (Chair)
Seat 7 David Pilpel

Seat 8 Bruce Wolfe
Seat 9 Hanley Chan
Seat 10 Nick Goldman
Seat 11 Marjorie Ann Williams
Ex-officio Gloria Young
Ex-officio Vacant

SAN FRANCISCO
PUBLIC LIBRARY

Note: Each item on the Agenda may include minutes, department or agency letters and reports; Task Force reports; and public correspondence. These items will be available for review at City Hall, Sunshine Ordinance Task Force, Room 244.

**Call to Order;
Roll Call;
Agenda Changes**

1. Approval of minutes of March 27, 2007. (action item) (5 min) (attachment)
2. Approval of minutes of April 10, 2007 Special Meeting. (action item) (5 min) (attachment)
3. Report: Rules Committee: Meeting of April 12, 2007. (Bruce Wolfe). (discussion and possible action) (5 min) (attachment)
4. Motion adding Sub-Section B. 8. (a) and (b) to the Task Forces Complaint Procedures: (a) A complainant may waive the 45 day rule and a postponement shall be allowed. Should the complainant again wish to postpone, it shall be by a simple majority vote of the members present.
(b) A respondent may request a postponement but it shall be approved upon the simple majority vote of the members present. (discussion and possible action) (15 min) (attachment)
5. Motion amending Section 7 of the Task Force's By Laws as follows
[Strikethroughs = deletions; Underlines = additions]:

Section 7. Action at a Meeting; Quorum and Required Vote

The presence of a majority of the members (six members) of the Task Force shall constitute a quorum for all purposes. The affirmative vote of a majority of the members of the Task Force (six votes) present shall be required for the approval of all substantive matters. Procedural motions require an affirmative vote of a majority of the members present. If a quorum is not present, no official action may be taken, except roll call and adjournment. (discussion and possible action) (15 min) (attachment)

6. Report from Complaint Committee meeting of March 13, 2007, and April 10, 2007. (Sue Cauthen) (action item) (10 min) (attachment)
- 07011 Determination of jurisdiction of complaint filed by Kimo Crossman against the Sheriff's Office for alleged failure to provide video records requested. (action item)
- 07016 Determination of jurisdiction of complaint filed by Ming Lee against Mary Elizabeth Inn and the Department on the Status of Women for alleged failure to respond in a timely manner, failure to allow inspection of documents and incomplete production of documents in violation of Section 12L of the City Administrative Code. (action item)
- 07018 Determination of jurisdiction of complaint filed by Peter Warfield, on behalf of the Library Users Association, against the Sunshine Ordinance Task Force Administrator and the Clerk of the Board for allegedly overcharging for agenda packets. (action item)
- 07019 Determination of jurisdiction of complaint filed by Andrew Sisneros against the Municipal Transportation Agency-Muni Kirkland Division for alleged failure to allow inspection of his personnel file, and untimely response. (action item)
- 07020 Determination of jurisdiction of complaint filed by Patrick Monette-Shaw against the Department of Public Health for alleged failure to post meeting notices and minutes, and denial of request to be added to their e-mail distribution list for agenda notices. (action item)
- 07021 Determination of jurisdiction of complaint filed by Kimo Crossman against the Sunshine Ordinance Task Force Administrator and the Clerk of the Board for alleged refusal to provide public records in original electronic format on the City web site. (action item)
- 07022 Determination of jurisdiction of complaint filed by Kimo Crossman against the City Attorney's Office for alleged failure to provide the supplemental report for the 2006 Supervisor of Records Report. (action item)
- 07023 Determination of jurisdiction of complaint filed by Kimo Crossman against the Department of Telecommunications and Information Services for alleged failure to provide a complaint log as directed by the Task Force and failure to provide e-mails related to position in Earthlink negotiations. (action item)

- 07024 Determination of jurisdiction of complaint filed by Peter Warfield, on behalf of the Library Users Association, against the Sunshine Ordinance Task Force Administrator and the Clerk of the Board for alleged violation of Section 67.21 (c) for late, incomplete, and possibly no response to a request for assistance. (action item)
7. 07015 Ming Lee requests that the full Task Force consider her appeal from the Complaint Committees failure to find jurisdiction. (action item) (10 min) (attachment)
8. 07011 Public Hearing, complaint filed by Kimo Crossman against the Sheriff's Office for alleged failure to provide video records requested. (action item) (30 min) (attachment)
9. 07013 Public Hearing, complaint filed by Adam Aufdencamp against the Mayor's Office of Communications for alleged failure to respond to an Immediate Disclosure Request. (action item) (30 min) (attachment)
10. 07016 Public Hearing, complaint filed by Ming Lee against Mary Elizabeth Inn and the Department on the Status of Women for alleged failure to respond in a timely manner, failure to allow inspection of documents and incomplete production of documents in violation of Section 12L of the City Administrative Code. (action item) (30 min) (attachment)
11. 07018 Public Hearing, complaint filed by Peter Warfield, on behalf of the Library Users Association, against the Sunshine Ordinance Task Force Administrator and the Clerk of the Board for allegedly overcharging for agenda packets. (action item) (30 min) (attachment)
12. 07019 Public Hearing, complaint filed by Andrew Sisneros against the Municipal Transportation Agency-Muni Kirkland Division for alleged failure to allow inspection of his personnel file, and untimely response. (action item) (30 min) (attachment)
13. 07020 Public Hearing, complaint filed by Patrick Monette-Shaw against the Department of Public Health for alleged failure to post meeting notices and minutes, and denial of request to be added to their e-mail distribution list for agenda notices. (action item) (30 min) (attachment)
14. 07021 Public Hearing, complaint filed by Kimo Crossman against the Sunshine Ordinance Task Force Administrator and the Clerk of the Board for alleged refusal to provide public records in original electronic format on the City web site. (action item) (30 min) (attachment)
15. 07022 Public Hearing, complaint filed by Kimo Crossman against the City Attorney's Office for alleged failure to provide the supplemental report for the 2006 Supervisor of Records Report. (action item) (30 min) (attachment)

16. 07023 Public Hearing, complaint filed by Kimo Crossman against the Department of Telecommunications and Information Services for alleged failure to provide a complaint log as directed by the Task Force and failure to provide e-mails related to position in Earthlink negotiations. (action item) (30 min) (attachment)
17. 07024 Public Hearing, complaint filed by Peter Warfield, on behalf of the Library Users Association, against the Sunshine Ordinance Task Force Administrator and the Clerk of the Board for alleged violation of Section 67.21 (c) for late, incomplete, and possibly no response to a request for assistance. (action item) (30 min) (attachment)
18. Report: Compliance and Amendments Committee: meeting of April 11, 2007. (Richard Knee). (discussion and possible action) (5 min) (attachment)
19. 07005 The Compliance and Amendments Committee has referred to the Task Force
& the Determination of whether the Department of Telecommunications and
07007 Information Services have fully complied with the Order of Determination of February 27, 2007. (discussion and possible action) (15 min) (attachment)
20. 07002a The Compliance and Amendments Committee has referred to the Task Force for further consideration their recommendation that the Mayor's Office be found in willful misconduct for failure to comply with the Sunshine Ordinance, and failure to respond to the Order of Determination issued by the full Task Force on March 27, 2007; that potential referral, based on that finding, to another appropriate body be considered. (Craven / Comstock)
21. 07002b The Compliance and Amendments Committee has referred to the Task Force the for further consideration their recommendation that the Mayor's Office be found in continued violation for failure to preserve records in accordance with the Sunshine Ordinance, and failure to comply with the Order of Determination issued by the full Task Force on March 27, 2007; that potential referral, based on that finding, to another appropriate body be considered.
22. 07008 The Compliance and Amendments Committee has referred to the Task Force the for further consideration their recommendation that the Public Utilities Commission be found in willful misconduct for failure to comply with the Sunshine Ordinance, and failure to comply with the Order of Determination issued by the full Task Force on March 27, 2007; that potential referral, based on that finding, to another appropriate body be considered.
23. 07009 The Compliance and Amendments Committee has referred to the Task Force for further consideration their recommendation that the Mayor's Office be found in willful misconduct for failure to comply with the Sunshine Ordinance, and failure to respond to the Order of Determination issued by the full Task Force on March 27, 2007.
24. Scheduling: Special Meeting of the Task Force to consider amendments referred from the Compliance and Amendments Committee §67.3, 67.7 through 67.15 (action item) (no attachment)

- 25. Administrator's Report. (discussion) (5 minutes) (attachment)
- 26. Public comment for items not listed on the agenda. Public comment to be held at 5:00 p.m., or as soon thereafter as possible. (no action item) (12 min)
- 27. Announcements, questions, and future agenda items from the Task Force. (no action item) (5 min) (no attachment)

Adjournment

Next Meeting May 22, 2007

SUNSHINE ORDINANCE TASK FORCE HEARING PROCEDURES

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations. Any person speaking during a public comment period may supply a brief written summary of their comments, which shall, if no more than 150 words, be included in the minutes. (Section 67.16)

Each member of the public who is unable to attend the public meeting or hearing may submit to the City, by the time the proceeding begins, written comments regarding the subject of the meeting or hearing; these comments will be made a part of the official public record. (Section 67.7-1 (c))

- | | | |
|----|---|----------------------|
| 1. | Complainant presents his/her facts and evidence | 5 minutes |
| | Other parties present facts and evidence | Up to 3 minutes each |
| 2. | City responds | 5 minutes |
| | Other parties of City respond | Up to 3 minutes each |

Above total speaking time for Complainant and City to be the same

- | | | |
|----|--|----------------------|
| 3. | Complainant presents rebuttal | 3 minutes |
| 4. | Public comment
(Excluding Complainant & City response, witnesses) | Up to 3 minutes each |
| 5. | Matter is with the Task Force for discussion and deliberation | |
| 6. | Vote by Task Force | |

Note: Time must be adhered to, if a speaker is interrupted by questions, the interruption does not count against his/her time.

Disability Access: The hearing room is wheelchair accessible.

Chemical-Based Products: In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals.

Cell phones, pagers and similar sound-producing electronic devices: The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decision in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact Frank Darby by mail to Administrator, Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102-4689, by phone at 415 554 7724; by fax at 415 554 7854; or by email at sotf@sfgov.org.

Citizens interested in obtaining a free copy of the Sunshine Ordinance can request a copy from Mr. Darby or by printing Chapter 67 of the San Francisco Administrative Code on the Internet, <http://www.sfgov.org/sunshine/>

Lobbyist Registration & Reporting Requirements

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance (SF Campaign & Governmental Conduct Code Sec. 2.100) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415 581-2300; fax (415 581-2317); web site: sfgov.org/ethics.

April 24, 2007

TO: Sunshine Ordinance Task Force
FM: Sue Cauthen for the Complaint Committee
RE: Information for Orders of Determination

Because of the large number of complaints this month, we are providing a list of relevant SO code sections only. Any records the TF orders produced should be provided in 5 days.

LEGEND: SO=Sunshine Ordinance; IDR=Immediate Disclosure Request; TF=Task Force; 12L=Section 12L of the Administrative Code

I. (07011) CROSSMAN v. SHERIFF'S OFFICE

SO: 67.1 (produce records); 67.25 (IDR); 67.27 (justify withholding)

II. (07016) LEE v. MARY ELIZABETH INN and DEPARTMENT ON THE STATUS OF WOMEN

SO: 67.21 produce records; 67.25 IDR; 12L.5(a) public non-profit records

III. (07018) WARFIELD v. TF ADMINISTRATOR and CLERK OF BOS

SO: 67.9e, 67.28 copy fees

IV. (07019) SISNEROS v. MTA-MUNI KIRKLAND DIVISION

SO: 67.21 produce records; 67.25 IDR; 67.27 justify withholding

V. (07020) MONETTE-SHAW v. DEPARTMENT OF PUBLIC HEALTH

SO: 67.3 definitions: passive, policy bodies; 67.4 passive meetings; 67.5 policy meetings; 67.6e operations of passive meeting bodies; 67.7 agenda requirements; 67.9(a) document review @ meetings; 67.21 produce records; 67.25 IDR

VI. (07021) CROSSMAN v. TF ADMINISTRATOR and CLERK OF BOS

SO: 67.21 produce records, including electronic records; 67.21-1 buy Sunshine-friendly computer systems

VII. (07022) CROSSMAN v. CITY ATTORNEY'S OFFICE

SO: 67.21h CAO annual report; 67.21-1 buy Sunshine-friendly computer systems;
67.26 minimum withholding; 67.27 justify withholding

VIII. (07023) CROSSMAN v. DTIS

SO: 67.21 produce documents; 67.25 IDR

IX. (07024) WARFIELD v. TF ADMINISTRATOR and CLERK OF BOS

SO: 67.21(b,c) response time; identify records

Item#7

(07015) LEE v. LA CASA DE LAS MADRES and DEPARTMENT OF THE STATUS OF WOMEN

SO: 67.21 produce records; 67.25 IDR; 12L.5(a) public non-profit records

Item #9

(07013) AUFDENKAMP v. MAYOR'S OFFICE

SO: 67.21 produce records; 67.25 IDR; 67.27 justify withholding

TEXT ONLY:



PRINT:



TEXT SIZE:



DOCUMENTS DEPT

JUN - 9 2008

SAN FRANCISCO
PUBLIC LIBRARY

April 24, 2007

SUNSHINE ORDINANCE TASK FORCE MINUTES

Tuesday, April 24, 2007
4:00 p.m., City Hall, Room 408

Task Force Members

Seat 1	Erica Craven (Vice Chair)	Seat 8	Bruce Wolfe
Seat 2	Richard Knee	Seat 9	Hanley Chan
Seat 3	Sue Cauthen	Seat 10	Nick Goldman
Seat 4	Vacant	Seat 11	Marjorie Ann Williams
Seat 5	Kristin Chu		
Seat 6	Doug Comstock (Chair)	Ex-officio	Vacant
Seat 7	David Pilpel	Ex-officio	Vacant

Call to Order The meeting called to order at 4:08 P.M.

Roll Call Present: Craven, Knee, Cauthen, Chu (out at 9:45), Comstock, Pilpel, Wolfe (arrived at 4:14), Chan (arrived at 4:15; out at 8), Goldman, Williams

Agenda Changes: Items were heard in the following order 1-5, 26, 6-7, 11, 17, 8, 10, 12, 18-19, 22, 20-21, 23-25, 27

Deputy City Attorney: Ernie Llorente

Administrator: Frank Darby

Agenda Changes:

The Administrator informed the Task Force that item 9 was withdrawn; item 13 was continued by agreement of both parties, that Mr. Crossman asked for a continuance of item #15, and Mr. Arellano asked for a continuance of item numbers 20, 21, and 23.

Kimo Crossman asked for a continuance of item #14; he said that he still has not received the COB's Internet posting policy and that he may withdraw the complaint once he receives the policy. The Administrator objected to the continuance because he has no additional information to provide.

Motion to continue item #14 (Craven \ Knee)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Wolfe, Goldman, Williams:

Absent: Chan

Chair Comstock asked Kimo Crossman to state his reason for requesting a continuance for item #15. Mr. Crossman said that he did not receive the response from DCA Dorji Roberts in time to submit his comments. Mr. Roberts said that he was prepared to go forward, but deferred the decision to the Task Force.

Motion to continue item #15. (Comstock \ Wolfe)

Ayes: Comstock, Wolfe, Chan

Noes: Craven, Knee, Cauthen, Chu, Pilpel, Goldman, Williams

Chair Comstock asked Kimo Crossman to respond to the request from the Mayor's Office to continue item #20, 21 and 23. Mr. Crossman said that he did not receive Mr. Arellano's request, and does not agree to a continuance.

DCA Llorente suggested that the Task Force, out of due process consideration, allow Mr. Arellano, who has been the representative of the Mayor's Office and appears most knowledgeable about the matter, the opportunity to speak.

Member Wolfe suggested that the Task Force not continue the matter.

Motion to continue item #20, 21, and 23. (Pilpel)

The motion failed for lack of a second.

Chair Comstock informed the public that item 9 was withdrawn, items 13, and 14 are continued.

The Administrator asked the Task Force to hear items 11 and 17 consecutively after item 7, because Linda Wong, who is assisting with clerking the meeting, must leave at 7 PM. Chair Comstock asked the Members if there was any objection to the Administrators request. There were no objections.

Chair Comstock, stated that the approved changes would be the order of the day.

Ming Lee asked that item 10 be heard last, after the other complaints. Emily Murase, DOSW, said that she is not able to stay to the very end and asked that the item be heard as posted on the agenda. Chair Comstock asked if there was a motion to continue the matter.

Member Cauthen said, that at the Complaint Committee, the parties were urged and Ms. Murase agreed to meet with Ms. Lee, but that Ms. Lee did not agree to a meeting.

There was no motion. Chair Comstock informed Ms. Lee that her matter would be heard in its current order.

Kimo Crossman, withdrew item #15.

1.

Approval of minutes of March 27, 2007.

Member Goldman informed the Task Force that he was submitting technical corrections to the minutes to the Administrator.

Speakers: Peter Warfield said that he did not get an agenda packet and does not have easy access to a computer, which made preparing for today's hearing difficult. He had no comments on the minutes, because he had not had a chance to read them.

Motion to approve minutes of March 27, 2007, as amended. (Cauthen / Goldman)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Wolfe, Chan, Goldman, Williams:

2.

Approval of minutes of April 10, 2007.

Chair Comstock and Member Goldman informed members that they had submitted typographical corrections to the Administrator.

Speakers: Peter Warfield said that their were unflattering language usage's in the minutes regarding statements that he made, such as the use of the word "complained" and "alleged." He suggested more appropriate language. Minutes were amended to reflect Mr. Warfield's suggestions.

Motion to approve minutes of April 10, 2007, as amended. (Comstock / Chu)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Wolfe, Chan, Goldman, Williams:

3.

Report: Rules Committee: Meeting of April 12, 2007.

Member Wolfe made the report regarding the items 4 and 5, which are scheduled for discussion. He also reported the Committee's discussion regarding the time frame regarding when documents associated with complaints are received, and suggested that the matter be discussed in the Complaint Committee.

Member Cauthen asked the Administrator to agendize a discussion regarding Member Wolfe's suggestion at the next Complaint Committee meeting. She also suggested the following grammatical changes to the language in item #4.

- a. ...such continuance must be put to a vote and be approved by...
- b. ...request a continuance; however, such continuance....

Member Wolfe indicated that the Committee also discussed whether the language in the charter regarding the 6 vote quorum applied to the Task Force.

Speakers: Peter Warfield said that he appreciated the report and the thinking that went behind it. He disagreed with the language that would allow a respondent the option to postpone, because the law requires that the complainant receives a resolution within 45 days. He urged caution regarding giving additional rights to departments because it may disadvantage

complainants.

4.

Motion adding Sub-Section B. 8. (a) and (b) to the Task Forces Complaint Procedures: (a) A complainant may waive the 45 day rule and a postponement shall be allowed. Should the complainant again wish to postpone, it shall be by a simple majority vote of the members present.

(b) A respondent may request a postponement but it shall be approved upon the simple majority vote of the members present.

Chair Comstock stated that Member Cauthen had already provided suggested language and asked if there were any objections to those amendments.

Member Pilpel said that the language on the agenda does not match the language on page 37 of the packet, which uses the word "continuance" rather than "postponement" and asked for clarification. Chair Comstock said that the word continuance is being used.

Member Craven suggested the following language:

(b) A respondent may request a continuance once, and upon agreement of the complainant the matter will be continued. If the complainant does not agree to the continuance requested, such continuance must be put to a vote and be approved by a simple majority vote of the members present.

Member Pilpel suggested that the last sentences in (b) read "...subject to the approved of the full Task Force by a simple majority vote of the members present."

Member Knee said that the entire procedures need editing. He said that he could inform the Task Force of the changes now, or that the matter be continued to the next meeting.

Chair Comstock asked the Administrator to agendize the discussion regarding formatting the complaint procedures for the next meeting.

Member Williams suggested that the Task Force delay discussion of this item until later in the meeting because their were individuals present to discuss the complaints.

Speakers: Kimo Crossman, urged that the matter be approved and not referred to the Complaint Committee.

Peter Warfield, said that the direction is good, but is not clear on the proposed wording; that he is concerned that the language in (b) will hinder meeting the 45 day requirement. That it's important to document how this discussion originated and what was discussed. He urged the Task Force to keep the language and the matter simple and not to assume that a person present today to discuss this matter is available to discuss it in other meetings.

Motion to refer this matter to the Complaint Committee for further review and editing. (Pilpel / Williams)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Wolfe, Chan, Goldman,

Williams

5.

Motion amending Section 7 of the Task Force's By Laws as follows
[Strikethroughs = deletions; Underlines = additions]:

Section 7. Action at a Meeting; Quorum and Required Vote

The presence of a majority of the members (six members) of the Task Force shall constitute a quorum for all purposes. The affirmative vote of a majority of the members of the Task Force (~~six votes~~) present shall be required for the approval of all substantive matters. Procedural motions require an affirmative vote of a majority of the members present. If a quorum is not present, no official action may be taken, except roll call and adjournment.

DCA Llorente informed the Task Force that section 4.104 of the Charter might implicate the Task Force on this matter. He said that the Government team of the City Attorney's Office (CA) has no opinion on this matter and that the CAO is in the beginning process of drafting an opinion on this matter. He suggested that the Task Force continue this item until a written opinion is provided.

Member Craven asked that the provisions of the code be referenced. She said that she supports a continuance

Member Pilpel asked the Administrator if a 10-day notice, as required in Article 8 of the By Laws before any changes can be made, had been made. The Administrator, through the Chair, responded that a 10-day notice had not been give.

Member Craven asked the Administrator to provide the 10-day notice prior to the next Task Force meeting.

Speakers: Allen Grossman said that he has no objection to continuing this item and that he wants to review the CAO opinion prior to the meeting.

Kimo Crossman said that another opinion, besides DCA Llorente's, is unnecessary since the CAO will say that 6 votes are required. He suggested that another opinion from an outside attorney such as Thomas Burke be sought, and that this matter be adopted and not continued.

Member Pilpel, asked the Administrator to include any public comment on this matter in the packet.

Peter Warfield said that the CAO's advice does not favor the complainant or the Task Force. The said, that this is a good measure because it is difficult for a complainant to obtain 6 favorable votes when members are absent or when there are vacancies. He said that he is disappointed that there is an absence of prior research. He suggested that the Task Force consult Thomas Burke or Terry Francke for an opinion.

Member Wolfe said that he is concerned when some members leave early because it affects the fairness of the vote.

Motion to continue to the next Task Force meeting. (Pilpel / Goldman)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Wolfe, Chan, Goldman, Williams

6.

Report from Complaint Committee meeting of March 13, 2007, and April 10, 2007.

Member Cauthen made the report.

Speakers: Peter Warfield said that the meeting was a great disappointment because he did not get the full time to present and rebut, he was interrupted, the DCA's letter was flawed, the Department did not explain its position and the DCA's letter was submitted to complainants after the deadline.

Member Cauthen explained, the purpose of the Complaint Committee is to determine jurisdiction and to focus the issue on the complaints. She said that Mr. Warfield had plenty of opportunities to speak and be heard, that he spoke about 16 times, and on each agenda item.

Kimo Crossman, referred to page 57 of the packet, indicating that there was a request for the Clerk of the Board to provide someone else to process complaints number 07018, 07021, and 07024, but that the Administrator continues to process them. He wanted to know what happened.

Member Cauthen responded that when the conflict of interest was raised, the Complainants were informed that the Committee could not force the City to provide an alternate, but that they could recommend it. She said that it was up to the City to decide to act, or not act on the recommendation.

07011

Determination of jurisdiction of complaint filed by Kimo Crossman against the Sheriff's Office for alleged failure to provide video records requested.

Member Pilpel asked Mr. Harrigan if he agrees that the records at issue in this complaint are subject to the Sunshine Ordinance and not records of a State officer. Mr. Harrigan responded that he did not agree that the records were subject to the Sunshine Ordinance, but that the subject matter falls under the Task Force's complaint jurisdiction.

Speaker: Kimo Crossman said that according to the sheriff's letter on page 108, it is a public record.

Peter Warfield asked when public comment would be allowed on the Committee report as a whole. Member Pilpel responded that it would occur after the discussion on jurisdiction of the complaints.

Member Chan asked to be recused.

Motion to recuse member Chan. (Craven / Wolfe)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Wolfe, Chan, Goldman, Williams

Motion to accept jurisdiction. (Cauthen / Goldman)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Wolfe, Goldman, Williams

Recused: Chan

07016

Determination of jurisdiction of complaint filed by Ming Lee against Mary Elizabeth Inn and the Department on the Status of Women for alleged failure to respond in a timely manner, failure to allow inspection of documents and incomplete production of documents in violation of Section 12L of the City Administrative Code.

Speakers: Emily Murase, Respondent, said she does not agree with a finding of jurisdiction, since the department did not have an opportunity to mediate the issue before it was brought to the Task Force. Ming Lee, Complainant, said that she does not see the value of meeting with Ms. Murase and that she supports jurisdiction.

Member Pilpel asked Ms. Murase if they had addressed the matter with Ms. Lee to seek a resolution. Ms. Murase said that that they had not and that she offered to mediate this matter with Ms. Lee but she declined.

Member Pilpel asked DCA Llorente, if the Task Force could hear the matter. DCA Llorente said, that a decision needs to be made on the merits, that he based his recommendation of jurisdiction on the Complainant's allegation that she sought mediation from the department but did not receive a resolution.

Mr. Wolfe asked if the complaint was against both the MEI and DOSW? Ms. Lee said that the complaint was against both. She said that she did not refuse to meet with Ms. Murase, but that she considered it an insincere jester.

Member Cauthen said that the Complaint Committee unanimously agreed to find jurisdiction and is recommending it.

Mr. Pilpel said that since the Department has not had an opportunity to resolve the dispute as required under 12L, he does not support jurisdiction.

Chair Comstock asked DCA Llorente if the Task Force must wait for a dispute resolution by the Department before hearing the matter. DCA Llorente said that 12L.5 (b) requires that the Department provide dispute resolution prior to seeking an advisory opinion of the Task Force.

Member Cauthen suggested that the Task Force move forward with jurisdiction since 12L.5 (b) says that the complainant "may" submit a complaint to the City agency, but it is not mandatory.

Member Craven agreed with Member Cauthen, and said that this complaint had been submitted to the department, and therefore the Task Force has jurisdiction.

Speakers: Allen Grossman said that 67.21 (c) applies because the Complainant made a request and was denied.

Chair Comstock asked Ms. Lee if she had requested the Department to adjudicate this matter. Ms. Lee responded that she attempted to, but never received a response.

Motion to continue to the call of the Chair to allow the Department to resolve the

matter in accordance with 12L. (Pilpel / Chan)

Ayes: Pilpel

Noes: Craven, Knee, Cauthen, Chu, Comstock, Wolfe, Chan, Goldman, Williams

Motion to accept jurisdiction. (Cauthen / Goldman)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Wolfe, Chan, Goldman, Williams

Noes: Pilpel

07018 Determination of jurisdiction of complaint filed by Peter Warfield, on behalf of the Library Users Association, against the Sunshine Ordinance Task Force Administrator and the Clerk of the Board for allegedly overcharging for agenda packets.

Speakers: Peter Warfield, Complainant, said that one of the difficulties that he has is being heard. He said that the agenda cuts off half of the complaint, which is that his subscription, which is allowed under Gov. Code Section 54954.1, was stopped because of non-payment.

Member Pilpel asked the Chair if the complaint could be amended to include section 54954.1.

Peter Warfield said that the complaint does not need to be change, but that the agenda needed to be changed.

Frank Darby, Respondent, said that he supports jurisdiction.

Member Knee, asked Mr. Warfield how he wanted to proceed. Mr. Warfield said that there was nothing wrong with the complaint, but that the description in the agenda needed to be addressed.

Motion to accept jurisdiction. (Cauthen / Knee)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Wolfe, Chan, Goldman, Williams

07019 Determination of jurisdiction of complaint filed by Andrew Sisneros against the Municipal Transportation Agency-Muni Kirkland Division for alleged failure to allow inspection of his personnel file, and untimely response.

Member Pilpel disclosed that he had served on the MTA-CAC and serves as an alternate on the MTATEP-CAC and that he spoke with Ms. Ueno yesterday on an unrelated matter, but, that he believes he can be impartial.

Speakers: None

Motion to accept jurisdiction. (Cauthen / Wolfe)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Wolfe, Chan, Goldman, Williams

07020 Determination of jurisdiction of complaint filed by Patrick Monette-Shaw against the Department of Public Health for alleged failure to post meeting notices and minutes, and denial of request to be added to their e-mail distribution list for agenda notices.

Previously continued.

07021 Determination of jurisdiction of complaint filed by Kimo Crossman against the Sunshine Ordinance Task Force Administrator and the Clerk of the Board for alleged refusal to provide public records in original electronic format on the City web site.

Previously continued.

07022 Determination of jurisdiction of complaint filed by Kimo Crossman against the City Attorney's Office for alleged failure to provide the supplemental report for the 2006 Supervisor of Records Report.

Previously withdrawn

07023 Determination of jurisdiction of complaint filed by Kimo Crossman against the Department of Telecommunications and Information Services for alleged failure to provide a complaint log as directed by the Task Force and failure to provide e-mails related to position in Earthlink negotiations.

Members Craven and Wolfe asked to be recused.

Motion to recuse Members Craven and Wolfe (Cauthen/Goldman)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Wolfe, Chan, Goldman, Williams

Member Chu said that this complaint concerns prior Task Force findings, and that there is no new information. She suggested that the matter be referred to the Compliance and Amendments Committee.

Speakers: Kimo Crossman, Complainant, said that the Department still has not complied with the original request and would like the matter to be heard.

Member Knee asked Mr. Crossman if his complaint was about the same records or new records. Mr. Crossman responded that they were about the same records. Member Knee said that it sounds as though it is not a new complaint.

Allen Grossman said that this is a new complaint for non-compliance. The CAC can't make a referral. The CAC failed to make a proper recommendation for a referral.

Peter Warfield said that since it is a new request and new withholding it constitutes a separate occurrence. He said that he is troubled by the recusals, because they were not asked to be recused by the complainant, who is now at a disadvantage.

Motion to refer to the Compliance and Amendments Committee for consideration. (Chu / Goldman)

Ayes: Knee, Cauthen, Chu, Comstock, Pilpel, Chan, Goldman, Williams

Recused: Craven, Wolfe

07024 Determination of jurisdiction of complaint filed by Peter Warfield, on behalf of the Library Users Association, against the Sunshine Ordinance Task Force Administrator and the Clerk of the Board for alleged violation of Section 67.21 (c) for late, incomplete, and possibly no response to a request for assistance.

Speakers: Peter Warfield, Complainant, said he supports jurisdiction, but that the DCA's letter adds Section 67.21 (b) and (c), which are not an issue. He said that he does not agree with the DCA's letter because it is not accurate. He said that the 10-day response to records request has nothing to do with this complaint.

Motion to accept jurisdiction. (Cauthen / Goldman)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Wolfe, Chan, Goldman, Williams

7. 07015 Ming Lee requests that the full Task Force consider her appeal against the Complaint Committee's failure to find jurisdiction.

Speakers: Ming Lee, Complainant, urged the Task Force to find jurisdiction. Respondents, Emily Murase, Department on the Status of Women, said that she was not aware of the complaint and did not have an opportunity to provide dispute resolution as specified under 12L.5 (b). She said that she reviewed the contract and that they have no documents responsive to Ms. Lee's request.

DCA Llorente said that there isn't jurisdiction because the documents requested don't fall under the documents subject to disclosure under 12L.

Kathy Black, La Casa, said that she supports the finding of no jurisdiction, and that she was not notified of the hearing; that she did not receive a request from Ms. Lee, and that 12L procedures were not followed.

Ming Lee, in rebuttal, said that on page 83 of the packet, is a copy of her letter showing that she made an Immediate Disclosure Request.

Member Cauthen said that the problem is, that 12L only covers certain documents, but not the documents requested. She said that she felt there was a mistake in the filing and that the Task Force could hear the complaint if Ms. Lee agrees to amend it to make the DOSW the only respondent.

Member Craven asked Ms. Murase if the Department has a document regarding a formal service agreement that specifies the terms and conditions and when La Casa commenced to provide case management service to all of the Inn's participants. Ms. Murase responded that they do not have responsive documents.

Member Cauthen asked Ms. Murase if the contract specifies the services that are provided and whether a copy of the contract was provided to Ms. Lee. Ms. Murase responded that the contract specifies the services and that it was given

to Ms. Lee.

Ms. Lee responded that she did receive that document and that it is not in the Task Force's packet.

Member Pilpel asked Ms. Murase to confirm whether MEI was a 12L by disclosing the amount of funds that they are provided. Ms. Murase deferred the answer to Amanda Heier. Ms. Heier responded that MEI receives approximately \$78K from DOSW and \$360K from the Department of Human Services.

Motion to find no jurisdiction. (Craven / Goldman)

Ayes: Craven, Knee, Chu, Pilpel, Goldman

Noes: Cauthen, Comstock, Wolfe, Chan, Williams

Motion to accept jurisdiction. (Knee / Wolfe)

Ayes: Comstock, Wolfe, Chan, Williams

Noes: Craven, Knee, Cauthen, Chu, Pilpel, Goldman

Member Cauthen asked that this matter be reconsidered at the next Task Force meeting.

Member Pilpel asked that, if this matter is heard again, the parties submit only new information and that they attempt to resolve the matter on their own.

Member Cauthen urged the parties to meet and talk about the issue.

8. 07011

Public Hearing, complaint filed by Kimo Crossman against the Sheriff's Office for alleged failure to provide video records requested.

Member Chan recused himself

Speakers: Kimo Crossman, Complaint, said he requested routine video made in City Hall of 10 hours of activity that occurred outside the Mayors office, but that his request was denied. The Sheriff's Office alleged that it may be part of an investigation. James Harrigan, Respondent, said his written response is in the packet and that all video in City Hall has an investigatory feature. He said that he did not discuss with, and will not disclose to Mr. Crossman whether the tapes are the subject of an investigation. He said that any document that supports a security function may become evidence, and neither the building management nor the City Administrator has access to the tapes.

Kimo Cross, in rebuttal, said that the department did not allege that there is an investigation, and that there is no expectation of privacy in City Hall.

Peter Warfield said, that if records requested are specifically named in an exemption, then they can be denied, but if not they must be provided.

Emily Murase said, that at commission meetings they have made it possible for people to testify anonymously. She said that, while women know that they will be audio recorded during the meeting, but have a reasonable expectation that they can come to City Hall without fear that their image would be disclosed.

Motion finding no violation (Pilpel / Craven)

Ayes: Craven, Pilpel, Williams

Noes: Knee, Cauthen, Chu, Comstock, Wolfe, Goldman

Recused: Chan

Motion finding a violation of Section 67.21 of the Sunshine Ordinance for failure to produce videotapes. The Department is directed to submit a response to the Task Force within 5 days of the receipt of the Order of Determination. (Cauthen / Goldman)

Ayes: Knee, Cauthen, Chu, Comstock, Wolfe, Goldman, Williams

Noes: Craven, Pilpel

Recused: Chan

9. 07013 Public Hearing, complaint filed by Adam Aufdecamp against the Mayor's Office of Communications for alleged failure to respond to an Immediate Disclosure Request.

Withdrawn prior to the meeting.

10. 07016 Public Hearing, complaint filed by Ming Lee against Mary Elizabeth Inn and the Department on the Status of Women for alleged failure to respond in a timely manner, failure to allow inspection of documents and incomplete production of documents in violation of Section 12L of the City Administrative Code.

Speakers: Ming Lee, Complainant, said that the department failed to respond to the IDR within 24 hours, and failed to fully disclose the records requested.

Respondents: Amanda Heier (MEI), said that they are required to respond within 24 hours under the IDR, but that within 5 days of the request they had provided Ms. Lee will all responsive documents. Emily Murase (DOSW), said that the issues raised by Ms. Lee are service delivery issues, and that she would like the opportunity to meet with Ms. Lee to discuss them.

Ms. Lee, in rebuttal, said that she did not receive the documents requested and has no confidence in quality of service offered by DOSW.

Member Pilpel asked Ms. Heier if she was willing to provide Ms. Lee with another copy of the documents. Ms. Heier said that she would provide another copy.

Member Wolfe asked Ms. Lee if she had notified DOSW. Ms Lee said that she was dissatisfied with DOSW.

Member Craven urged Ms. Heier, Ms. Murase, and Ms Lee to meet to discuss any additional outstanding issues.

Motion finding a violation of 12L, for not producing documents. (Wolfe / Williams)

Ayes: Wolfe, Williams

Noes: Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Goldman

Excused Absent: Chan

The motion failed.

Task Force took no formal action.

11. 07018

Public Hearing, complaint filed by Peter Warfield, on behalf of the Library Users Association, against the Sunshine Ordinance Task Force Administrator and the Clerk of the Board for allegedly overcharging for agenda packets.

Speakers: Peter Warfield, Complainant, said that he was overcharged for the agenda packets and that his subscription for the agenda and agenda packets were stopped for non-payment. He urged the Task Force to find a violation against both Mr. Darby and the Clerk of the Board.

Frank Darby, Respondent, said that the department made an error in its charge to Mr. Warfield and that they should have charged 1 cent per page rather than 10 cents per page. He asked the Task Force to find no violation since the documents were provided by the department but no payment was submitted by Mr. Warfield for the undisputed documents, and he asked that Mr. Warfield be directed to pay \$29.17, which is the cost due for the material provided at 1 cent per page. He said that the department would reactivate the subscription upon request by Mr. Warfield and that documents would be mailed after receipt of payment.

Peter Warfield said that he appreciates the acknowledgment of error, but said that it has taken over a year. He said that he did not feel that it was appropriate to pay a charge while it was in dispute until it was adjudicated, because he would lose the opportunity to dispute it. He said that he does not dispute the amended charges and would be happy to pay for what he received. He said his rescinding his subscription for non-payment was not appropriate under any circumstance. He asked for a finding that he identified on page 173 of the packet, and that the 1 cent charge be expanded to apply to all agenda packets, whether there is a subscription or not. He said that the charges are optional and that other departments provide such materials without charge.

Member Craven said that it was incredibly unfortunate that it took a year to resolve, and that she was troubled that the Department did not notice the error until the eve of the meeting. With regards to an agency's right to cut off a mailing under 54954.1, she said, that the department probably had a right to terminate the subscription due to unpaid fees, because they are allowed to assess and collect a fee, however, she feels that it was unreasonably applied in this instance because there was a good faith dispute.

Member Williams cited the Section 8.37 of the Administrative code regarding the waiving of fees or the inability to pay and asked Mr. Warfield if he notified the department that he was unable to pay. Mr. Warfield responded that he did not provide such notice.

Kimo Crossman said that he supports the motion and recommends that the fees be completely waived.

Motion finding a violation of the Sunshine Ordinance Sections 67.9 (e), 67.21 (h), and California Government Code Section 54954.1 for charging 10 cents per page for agenda packet materials. The Department is directed to reassess the invoices and the amounts due within five days of receipt of the Order of Determination, and to issue a revised invoice that charges only one cent per page for the packet, and include the mailing cost incurred to date. Further, that Library Users Association shall be reinstated on the mailing list to receive agendas and agenda packets. (Craven / Wolfe)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Wolfe, Chan, Goldman, Williams

12. 07019

Public Hearing, complaint filed by Andrew Sisneros against the Municipal Transportation Agency-Muni, Kirkland Division for alleged failure to allow inspection of his personnel file, and untimely response.

Member Pilpel said that he knows Ms. Ayn Antonio, but feels that he can be impartial in this matter.

Member Cauthen disclosed that she is a member of the MTA-CAC, but that she feels that she can be impartial in this matter.

Speakers: Andrew Sisneros, Complainant, said that he did not receive full disclosure of his personnel file, and that the Department did not respond in a timely manner. Respondents: Rumi Ueno, said that Mr. Sisneros was provided a complete copy of his file, which consisted of over 300 pages. Ayn Antonio, said, although the Department did not respond timely, it has provided all of the records that they have at the division.

Mr. Sisneros, in rebuttal, said that, although he received over 300 pages, 60 pages were duplicated and 77 pages were missing from the file.

Member Pilpel asked Ms. Ueno, if there were other documents that were not provided. Mr. Ueno said that some documents that Mr. Sisneros alleges are missing may have been destroyed due to retention requirements. She said that there is a separate grievance file that is not part of the personnel file.

Motion finding a violation of Section 67.21 of the Sunshine Ordinance for failure to respond to the initial request and the subsequent IDR within the timeframe provided. (Craven / Wolfe)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Wolfe, Goldman, Williams

Excused Absent: Chan

13. 07020

Public Hearing, complaint filed by Patrick Monette-Shaw against the Department of Public Health for alleged failure to post meeting notices and minutes, and denial of request to be added to their e-mail distribution list for agenda notices.

Previously continued.

14. 07021 Public Hearing, complaint filed by Kimo Crossman against the Sunshine Ordinance Task Force Administrator and the Clerk of the Board for alleged refusal to provide public records in original electronic format on the City web site.
- Previously continued.
15. 07022 Public Hearing, complaint filed by Kimo Crossman against the City Attorney's Office for alleged failure to provide the supplemental report for the 2006 Supervisor of Records Report.
- Previously withdrawn.
16. 07023 Public Hearing, complaint filed by Kimo Crossman against the Department of Telecommunications and Information Services for alleged failure to provide a complaint log as directed by the Task Force and failure to provide e-mails related to position in Earthlink negotiations.
- Previously referred to the Compliance and Amendments Committee.
17. 07024 Public Hearing, complaint filed by Peter Warfield, on behalf of the Library Users Association, against the Sunshine Ordinance Task Force Administrator and the Clerk of the Board for alleged violation of Section 67.21 (c) for late, incomplete, and possibly no response to a request for assistance.
- Speakers: Peter Warfield, asked that his matter be continued because there was new material that came in and he was not able to prepare his presentation.
- Member Pilpel asked if there were any substantive matters still outstanding. Mr. Warfield said that there were still substantive matters pending.
- Frank Darby, Respondent, said that he did not agree to a continuance.
- Motion to continue. (Craven / Knee)
- Ayes: Craven, Knee, Comstock, Wolfe, Chan
- Noes: Chu, Pilpel, Goldman, Cauthen, Williams
- Peter Warfield withdrew the complaint.
18. Report: Compliance and Amendments Committee: meeting of April 11, 2007.
- Member Knee made the report. He said that the Office of Contract Administration was invited to their next meeting to discuss their policies and practices regarding the method and timing of releases of records related to request bids and proposals.
- Chair Comstock said that he presented to the Members a response from the Ethics Commission with regards to records of closed investigations, and that they refused to provide the records of investigations. He said that he is seeking direction from the Task Force as to some next steps.
- Chair Comstock, asked the Administrator to agendaize a discussion regarding the Ethic Commission's retention of records of closed investigations, for the next meeting.

Speakers: Peter Warfield said that he "seconds" the chairs recommendation because it's something that needs to be aired. He said that he has had complaints referred to the Ethics Commission, but did not receive a satisfactory response, so it is an important matter for the Task Force to take up with public input.

19. 07005 &
07007

The Compliance and Amendments Committee has referred to the Task Force the Determination of whether the Department of Telecommunications and Information Services have fully complied with the Order of Determination of February 27, 2007.

Members Craven and Wolfe recused themselves.

Member Knee said that there is continued resistance by the Department to comply with the Order of Determination, and recommended that this matter be referred to another body.

Speaker: Kimo Crossman, said that Mr. Vincent should be found in willful failure for not doing his duty, which is official misconduct. Ron Vinson said that he has responded completely with the Task Forces, Order of Determination (OD) and doesn't know what more he can do. He referred the Task Force to the packet of material that he submitted to the CAC.

Chair Comstock asked Mr. Vinson to confirm that, in his written response to Mr. Crossman's requests #1, 5, and 8 that the Department disagrees with the Task Force's orders.

DCA Llorente responded that the Department appears to have complied with the OD.

Member Knee asked if the OD could be revised? DCA Llorente said that the OD could be revised and that the Department had complied with the OD as it is written.

Member Williams said that the Task Force has been going around in circles regarding this complaint and suggested that they move on.

Member Cauthen said that the Department has made a good faith effort to comply with the OD.

At the conclusion of testimony and extensive discussions among its members, the Task Force took no formal action.

20. 07002a

The Compliance and Amendments Committee has referred to the Task Force for further consideration their recommendation that the Mayor's Office be found in willful misconduct for failure to comply with the Sunshine Ordinance, and failure to respond to the Order of Determination issued by the full Task Force on March 27, 2007; that potential referral, based on that finding, to another appropriate body be considered.

Member Knee recommended that this matter be referred to District Attorney, Board of Supervisors, or California Attorney General.

Speaker: Kimo Crossman, said that the language of the motion should be willful failure. He suggested that the Department Head, Nathan Ballard, be named, and held responsible.

Member Craven suggested that items #20 and 21 be heard together and that there be a combined referral. Without objection.

Peter Warfield said that if he is not allowed six minutes for public comment that he will file a complaint next month against the Chair for not allowing three minutes per item. He said that he wanted to "second" what the previous speaker said. He said that he does not believe the Mayor's Office's claim that the Mayor's calendar is destroyed after 5 days. He urged the Task Force to investigate the Mayor's Office's allegations, and to also include a violation of Section 67.29-5,

Member Pilpel said that the Task Force can refer the matter, but only the Ethics Commission can find official misconduct, pursuant to Section 67.30.

Member Wolfe asked if it matters whether the words "official misconduct" is removed from the language of the motion? Member Craven responded that it is important because the Director of the Ethics Commission indicated that the Task Force should clearly identify its findings.

Chair Comstock asked if willful failure can be against a Department or if it must be found against a person. Member Craven responded that it must be directed to a person.

Member Pilpel said that it is not appropriate to name individuals who have not had an opportunity to directly address the Task Force. He said that making a decision without their presence denies them the right to due process, and that Task Force Member may be themselves subject to claims of official misconduct for failure to properly discharge their duties.

DCA Llorente said, that the Department Head can be held responsible, if he is aware of this matter.

The Task Force finds the Mayor's Office and the Mayor's Office of Communications, through their representatives the Mayor and Nathan Ballard, are in willful failure and official misconduct for violation of Sunshine Ordinance Sections 67.21, 67.29-7 and 67.34 for failure to provide requested records and ongoing failure to preserve public records. The Task Force referred this matter for further investigation and enforcement to the San Francisco Ethics Commission, the San Francisco District Attorney, and the California Attorney General. (Craven / Knee)

Ayes: Craven, Knee, Cauthen, Comstock, Wolfe, Goldman, Williams

Noes: Pilpel

Excused Absent: Chu, Chan

21. 07002b

The Compliance and Amendments Committee has referred to the Task Force the for further consideration their recommendation that the Mayor's Office be

found in continued violation for failure to preserve records in accordance with the Sunshine Ordinance, and failure to comply with the Order of Determination issued by the full Task Force on March 27, 2007; that potential referral, based on that finding, to another appropriate body be considered.

The Task Force acted on this matter with item #20.

22. 07008 The Compliance and Amendments Committee has referred to the Task Force the for further consideration their recommendation that the Public Utilities Commission be found in willful misconduct for failure to comply with the Sunshine Ordinance, and failure to comply with the Order of Determination issued by the full Task Force on March 27, 2007; that potential referral, based on that finding, to another appropriate body be considered.

Previously continued.

23. 07009 The Compliance and Amendments Committee has referred to the Task Force for further consideration their recommendation that the Mayor's Office be found in willful misconduct for failure to comply with the Sunshine Ordinance, and failure to respond to the Order of Determination issued by the full Task Force on March 27, 2007.

Member Craven said that this is not willful failure, since staff were following the Departments policy.

Speaker: Kimo Crossman, said that the Department deleted the e-mail records after they were requested and should not get away with it. That they could easily pull them from backup, that all servers maintain.

Peter Warfield, apologized for being harsh during his prior comment and said that he does not plan to file a complaint against the Chair. He said that the Task Force will loose credibility if they don't respond in a strong manner. He urged the Task Force to take this matter seriously, and to take the strongest possible action.

DCA Llorenta said that the OD is not as clear as others are for a referral.

Member Pilpel suggested that the Task Force take no action.

Member Knee suggested that the Chair send a letter to the Mayor's Office stating that, the matter would be referred to the Attorney General and/or District Attorney, if the requested documents are not provided by the next meeting of the Task Force.

Chair Comstock suggested, that a letter be written asking if they have corrected the problem, and if the problem is ongoing the matter will be referred.

Member Craven said that it is important to know why there is no e-mail back up from which the information can be pulled, and whether there's been a change to the Mayor's policy.

Member Wolfe suggested that a knowledgeable person from the Mayor's Office

appear to address any technological matters.

Member Knee said that an invitation to attend the next full Task Force meeting or detailed written explanation would suffice.

Chair Comstock, by consensus of the Task Force, said that a letter will be written requesting that the Mayor's Office provide a written response within 14 days and that a knowledgeable representative appear at the next Task Force meeting.

Continued by consensus of the Task Force.

24.

Scheduling: Special Meeting of the Task Force to consider amendments referred from the Compliance and Amendments Committee §67.3, 67.7 through 67.15 (action item) (no attachment)

Speaker: Kimo Crossman, asked when the draft amendments for the last meeting will be completed? He suggested that the changes be made visible on a projector during the meeting.

Peter Warfield said, that the Task Force need to show the source of the changes and how changes are being made.

By consensus, the Task Force scheduled its next special meeting for Tuesday, May 8, 2007 at 5:00 PM.

Chair Comstock, asked the Administrator to schedule items 67.7 to 67.16 for discussion at the next special meeting of the Task Force.

25.

Administrator's Report.

The Administrator made the report.

Speakers: Peter Warfield said, that according to the Complaint Committee minutes he only spoke 11 times and not 16 times. He said that the Complaint Log should indicate that the complaint was filed by the Library Users Association, rather than Peter Warfield.

Kimo Crossman said, that Angela Calvillo is the new clerk, and that he asked for a commitment to Sunshine. He said that the SOTF Administrator's Office should be open during business hours (8 am – 5 pm).

26.

Public comment for items not listed on the agenda. Public comment to be held at 5:00 p.m., or as soon thereafter as possible.

Speakers: Allen Grossman said, that if a complainant asks for 1 additional day to respond to the Department's response to a complaint that it should be allowed. He alleged that the Administrator favors the Departments to the detriment of the complainants. He said that he received no response to his questions to item #5.

Kimo Crossman said, that Departments are not submitting a response to complaints within five days as required. He alleged that the Administrator favors the Departments, that he is non-responsive, and should be censored for his

activities.

Peter Warfield said, that the complaint procedures are not clear regarding the filing time. He said that he received notices from the Administrator via e-mail, and that he doesn't want information e-mailed to him. He said that the Respondent did not provide any discussion at the Complaint hearing, and that there is confusion regarding the deadline for submitting information for inclusion in the packet.

27.

Announcements, questions, and future agenda items from the Task Force

Speakers: Member Wolfe said, that he plans to address the Board during the budget process to request more money from the Board for an additional staff person to assist the Administrator.

Chair Comstock said, that Angela Cavillo will be a great addition to the Clerk of the Board's Office.

Member Pilpel said, that it's time for the Annual Report. He asked to agendize the presentation of the Supervisor of Records supplemental report for the next Full Task Force meeting. He suggested that the new Clerk of the Board be invited to the Full Task Force meeting once she comes on board. He said that the annual election of officers is scheduled for the next meeting.

Speaker: Peter Warfield urged the Task Force to agendize Member Pilpel's suggestions.

Adjournment

The meeting was adjourned at 11:12 p.m.

This meeting has been audio recorded and is on file in the Office of the Sunshine Ordinance Task Force.

Sunshine Ordinance Task Force



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-7724
Fax No. 554-7854
TDD/TTY No. 544-5227

<http://www.sfgov.org/sunshine/>

**SUNSHINE ORDINANCE TASK FORCE
SPECIAL MEETING
AGENDA**

Tuesday, May 8, 2007
5:00 p.m., City Hall, Room 406

4/10/07 mst
DOCUMENTS DEPT.

MAY - 2 2007

SAN FRANCISCO
PUBLIC LIBRARY

Task Force Members

Seat 1	Erica Craven (Vice Chair)	Seat 8	Bruce Wolfe
Seat 2	Richard Knee	Seat 9	Hanley Chan
Seat 3	Sue Cauthen	Seat 10	Nick Goldman
Seat 4	Vacant	Seat 11	Marjorie Ann Williams
Seat 5	Kristin Chu		
Seat 6	Doug Comstock (Chair)	Ex-officio	Gloria Young
Seat 7	David Pilpel	Ex-officio	Vacant

Note: Each item on the Agenda may include minutes, department or agency letters and reports; Task Force reports; and public correspondence. These items will be available for review at City Hall, Sunshine Ordinance Task Force, Room 244.

Call to Order

Roll Call

Agenda Changes

1. Discussion of the appointment of an Ad Hoc Budget Committee: an advisory committee composed of members of the Task Force and community members. (discussion and possible action item)
2. Discussion regarding letter to the Board regarding the Rules Committee's request that the Task Force ascertain how much compliance with the ordinance costs each department. (discussion and possible action item) (attachment)
3. Possible amendments to Sections 67.7 to 67.17 of the Sunshine Ordinance and subsequent sections as time permits. (discussion and possible action item) (attachment)

Sec 67.7 Agenda Requirement; Regular Meetings.

Sec 67.7-1 Public Notice Requirement

Sec 67.8 Agenda Disclosures: Closed Sessions

Sec 67.8-1 Additional Requirements for Closed Sessions

Sec 67.9 Agendas and Related Materials: Public Records

Sec 67.10 Closed Sessions: Permitted Topics.

Sec 67.11 Statement and Reasons for Closed Sessions.

Sec 67.12 Disclosure of Closed Session Discussions and Actions.
Sec 67.13 Barriers to Attendance Prohibited.
Sec 67.14 Tape Recording, Filming and Still Photography.
Sec 67.15 Public Testimony.
Sec 67.16 Minutes
Sec 67.17 Public Comment by Members of Policy Bodies.

Adjournment

SUNSHINE ORDINANCE TASK FORCE HEARING PROCEDURES

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations. Any person speaking during a public comment period may supply a brief written summary of their comments, which shall, if no more than 150 words, be included in the minutes. (Section 67.16)

Each member of the public who is unable to attend the public meeting or hearing may submit to the City, by the time the proceeding begins, written comments regarding the subject of the meeting or hearing; these comments will be made a part of the official public record. (Section 67.7-1 (c))

- | | | |
|----|---|----------------------|
| 1. | Complainant presents his/her facts and evidence | 5 minutes |
| | Other parties present facts and evidence | Up to 3 minutes each |
| 2. | City responds | 5 minutes |
| | Other parties of City respond | Up to 3 minutes each |

Above total speaking time for Complainant and City to be the same

- | | | |
|----|---|----------------------|
| 3. | Complainant presents rebuttal | 3 minutes |
| 4. | Public comment | Up to 3 minutes each |
| | (Excluding Complainant & City response, witnesses) | |
| 5. | Matter is with the Task Force for discussion and deliberation | |
| 6. | Vote by Task Force | |

Note: Time must be adhered to, if a speaker is interrupted by questions, the interruption does not count against his/her time.

Disability Access: The hearing room is wheelchair accessible.

Chemical-Based Products: In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals.

Cell phones, pagers and similar sound-producing electronic devices: The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decision in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact Frank Darby by mail to Administrator, Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102-4689; by phone at 415 554 7724; by fax at 415 554 7854; or by email at sot@sfgov.org.

Citizens interested in obtaining a free copy of the Sunshine Ordinance can request a copy from Mr. Darby or by printing Chapter 67 of the San Francisco Administrative Code on the Internet, <http://www.sfgov.org/sunshine/>

Lobbyist Registration & Reporting Requirements

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance (SF Campaign & Governmental Conduct Code Sec. 2.100) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415 581-2300; fax (415 581-2317); web site: sfgov.org/ethics.



TEXT ONLY:



PRINT:



TEXT SIZE:



May 08, 2007

DOCUMENTS DEPT

JUN - 9 2008

SAN FRANCISCO
PUBLIC LIBRARY

SUNSHINE ORDINANCE TASK FORCE SPECIAL MEETING MINUTES

Tuesday, May 8, 2007
5:00 p.m., City Hall, Room 406

Task Force Members

Seat 1	Erica Craven (Vice Chair)	Seat 8	Bruce Wolfe
Seat 2	Richard Knee	Seat 9	Hanley Chan
Seat 3	Sue Cauthen	Seat 10	Nick Goldman
Seat 4	Vacant	Seat 11	Marjorie Ann Williams
Seat 5	Kristin Chu		
Seat 6	Doug Comstock (Chair)	Ex-officio	Vacant
Seat 7	David Pilpel	Ex-officio	Vacant

Call to Order The meeting was called to order at 5:05 P.M.

Roll Call Present: Craven, Knee, Cauthen (out at 7 PM), Chu (out at 5:40 PM), Comstock, Pilpel, Wolfe, Goldman

Absent: Chan

Excused: Williams

Agenda Changes: None

Deputy City Attorney: Ernie Llorente

Administrator: Frank Darby

1. Discussion of the appointment of an Ad Hoc Budget Committee: an advisory committee composed of members of the Task Force and community members.

Chair Comstock said that there is an interest in increasing the Budget for the Task Force and to work with the Board of Supervisors to ensure a sufficient budget.

DCA Llorente said that establishing a purely advisory body would not be a legal problem as long as they did not perform any of the duties set out in the Ordinance specific to the Task Force.

Member Pilpel expressed an interest in serving on the committee. He asked that the Committee be given a written charge indicating their duration and purpose.

Chair Comstock said that he wants the committee to outline the goals that they think that they can accomplish, rather than be given a directive.

Speakers: Peter Warfield asked that agenda items be more informative. He said that the Task Force should request a \$50K budget for litigation, and that he is not sure if this discussion is about a getting a full time Administrator, which is already provided for in the Ordinance. Regarding item 2 he said that the Task Force should ask the Board to also consider the cost for non-compliance.

Kimo Crossman said that obtaining funding for outside counsel is key to the success of the Sunshine Ordinance Task Force. He said that the Task Force Administrator's tasks should be reviewed because there may not be a need to hire another person, but rather to get another staff person.

Member Knee asked about the background and/or skill set that the Task Force should consider for those who serve on the advisory body.

Chair Comstock said that anyone who wants to serve may serve.

Motion to establish an Ad Hoc Budget Advisory Committee, to empower the Chair of the Task Force to appoint the Chair and members of the Committee, including members who are not members of the Task Force; to have the Chair of this Task Force create a written charge to the Advisory Committee and to request that committee to propose written goals for this full Task Force for further review (Pilpel / Comstock)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Wolfe, Goldman

Absent: Chan

Excused Absent: Chu, Williams

Member Wolfe said that time is of the essence and that they only have until the end of the month to submit a response, since the budget process has already begun. And he said, that there isn't time to formulate what the committee should and should not do. He said that he has to begin working on this now.

Chair Comstock appointed Members who has volunteered Wolfe, Pilpel, and himself to serve on the committee. He instructed Members of the Public, who wished to serve on the committee, to notify him during the break or after the meeting.

Chair Comstock said that he will write a written charge, but it does not prevent the committee from moving forward.

2. Discussion regarding letter to the Board regarding the Rules Committee's request that the Task Force ascertain how much compliance with the ordinance costs each department.

Chair Comstock said that the letter was prepared in response to a directive from the Rules Committee.

Member Pilpel suggested that the letter be addressed to President Peskin or Supervisor Elsbernd, and that a carbon copy be sent to other Board Members and to the interim Clerk of the Board. Chair Comstock said that he will direct the letter to President Peskin.

Public Comment: Kimo Crossman asked whether the cost excluded CPRA. Chair Comstock responded in the negative, because CPRA is within the Task Force's purview. Mr. Crossman said that this is a bad idea and that the Task Force should not do this. He said that the Controller has the financial resources and the expertise to do this.

Member Knee said that the costs are difficult to measure; he expressed concern that this will tend to weaken Sunshine.

Member Craven said that she doesn't see much cost savings because a vast majority of the costs are a result of State law requirements and not the Ordinance.

Member Wolfe suggested that the letter be amended to indicate compliance with the CPRA, Brown Act and any subsequent compliance with the Sunshine Ordinance. He said that there might be two

reports: one dealing with State law and the other with the Ordinance. Member Knee responded that it would also be important to ask if there has been an increase in compliance cost since the passage of Proposition 59.

Member Cauthen suggest that the Bay Guardian be made aware of the request and the Task Forces response, since they write about Sunshine.

Member Knee responded that all media should be made aware.

Member Wolfe suggested that the letter be reworded to indicate costs of complying with State law and costs associated with the Sunshine Ordinance.

Public Comment: Lurila Harris said that the letter should include the cost for non-compliance; that cost might be lower if Departments were educated.

Peter Warfield said that it's difficult to calculate compliance and non-compliance. He said that it was clear when the Ordinance was written that it would cost a lot of money. He said that the letter is unbalanced because it does not state the benefits.

Motion authorizing the Chair to send a letter to the Board as amended, with latitude to make changes. (Pilpel / Cauthen)

Ayes: Craven, Cauthen, Comstock, Pilpel, Goldman

Noes: Knee, Wolfe

Absent: Chan

Excused Absent: Chu, Williams

Chair Comstock asked DCA Llorente if this matter qualifies as procedural. DCA Llorente responded that this is a procedural matter and that the motion passes.

Member Cauthen asked why Members Knee and Wolfe opposed the letter, however they chose not to indicate the reason for their opposition.

3. Possible amendments to Sections 67.7 to 67.17 of the Sunshine Ordinance and subsequent sections as time permits.

- a. Sec 67.7 Agenda Requirement; Regular Meetings.
- b. Sec 67.7-1 Public Notice Requirement
- c. Sec 67.8 Agenda Disclosures: Closed Sessions
- d. Sec 67.8-1 Additional Requirements for Closes Sessions
- e. Sec 67.9 Agendas and Related Materials: Public Records
- f. Sec 67.10 Closed Sessions: Permitted Topics.
- g. Sec 67.11 Statement and Reasons for Closed Sessions.
- h. Sec 67.12 Disclosure of Closed Session Discussions and Actions.
- i. Sec 67.13 Barriers to Attendance Prohibited.
- j. Sec 67.14 Tape Recording, Filming and Still Photography.
- k. Sec 67.15 Public Testimony.
- l. Sec 67.16 Minutes
- m. Sec 67.17 Public Comment by Members of Policy Bodies.

Chair Comstock said that public comment would be entertained if there are substantive changes to a section.

Member Craven: the major change in this section is in 67.7(c) which require policy bodies to post agendas outside their meeting rooms, at the main library and at branch libraries, with a branch library requirement satisfied if the branch library has accessible computers where agendas are available and 67.7(f) which deals with information in alternative formats. This section (f) was amended with language obtained through the assistance of the Mayor's Office of Disability.

Member Pilpel: have objections to the posting of the agendas outside the meeting room. It might be a problem for meetings that do not have posting facilities outside the meeting room. Those bodies that meet outside City Hall may not be able to meet this requirement.

Member Craven we could accommodate those situations by allowing those that meet outside City Hall to post agendas "where practicable."

Member Knee: Insert three words. After meeting rooms insert the words "unless demonstrably impracticable."

Member Craven: I suggest, "unless the meeting is not held on City controlled property."

Member Comstock: Any objections?

Member Pilpel: re subsection (f) why is the last line in the existing language not included? I think we can unstrike the last sentence.

Member Craven: That's language we added at Compliance & Amendments.

Public Comment regarding 67.7:

Peter Warfield urged that the double underlined language in section (c) be eliminated because it reduces the awareness of a meeting since the public frequently does not have easy access to computers in the library, since there is usually a waiting list for computer use.

And, at least 160,000 people do not have access to the internet. The waiting lists deprive the average library user from an accessible agenda.

Member Pilpel asked Mr. Warfield if he were proposing that all 27 branch libraries maintain a binder similar to the binder at the Govt. Information Center at the Main Library for all public meetings? Mr. Warfield said, that there may be a solution, or a bulletin board.

Member Craven: The point here is that this section brings additional posting requirements to branch libraries.

Member Wolfe: Posting should be available for disabled persons, such as the posting of meetings such as City College has on a wall that is accessible.

Member Knee: I'd like to propose the following language for 67.7(a) "Agendas shall specify whether each item of business is subject to possible action or for discussion only."

67.7 (b) substitute the word "shall" for "should" and cross out the word "brief."

67.7(c) (Line 20) Cross out the word "regular." (Line 22) Cross out the word "freely."

67.7(e)(2) End the sentence after the word "deferred", cross out "to a subsequent special or regular meeting"

67.7(f) Cross out the words "Upon request," Change sentence to read "Materials shall be made available in alternative formats when so requested of the secretary or clerk of the commission."

Member Comstock: Are there any objections to those changes?"

Member Pilpel: I've already stated my opposition to the words "to a subsequent meeting" in 67.7(e)

Also at 67.7(a) I'd like the language to read (lines 8-9) add sentence "items subject to possible action shall specify the intended course of action."

Member Wolfe: I think that would limit the actions a body could take by pigeon-holing their course of action.

Member Craven: I think that would tread on the Brown Act. I think we just leave it consistent with what it is.

Member Pilpel: Where, however there is a proposed course of action, one that is proposed by staff, I think that should be disclosed. I don't think that is a substantial burden.

Member Wolfe: Can you give me an example of when that does not take place?

Member Knee: Not all actions are recommended by staff, in our own body, actions typically come from committees. I agree with Mr. Pipel that a body must specify a course of action when it is known.

Member Comstock: I agree with Member Pipel as well, that if a specific action is proposed, it shall be included in the agenda item.

Any objections? None.

Member Pipel: What are we contemplating in (c) "in the branch libraries and in a location that is accessible to members of the public."

Member Craven: "in locations that are freely accessible to members of the public. "Freely" is back in.

Member Pipel Why is subsection (e)(3) proposed to be yanked?

Member Craven: I think it's because it's because we are requiring a 72-hour posting. Mr. Llorente do you remember this matter?

DCA Llorente: I think Mr. Comstock objected to a case where an item was continued, but there was no further notice of the proposed action, therefore those who were not at the first meeting did not know what was proposed to take place at the continued meeting.

Member Pipel: 549.551 I remember that the PUC sometimes has a problem maintaining a quorum during budget meetings and that it recesses a meeting for 5 days.

Member Craven: I think this may have been stricken accidentally. I think Member Comstock wanted to have the previous agenda posted with the continued meeting so with the consent of the members, I would keep it consistent with the Brown Act so

Member Pipel: add, "notice of the recessed meeting will be posted with the agenda of the prior meeting.

Member Craven addition the notice of the continued item should be posted with the agenda of the previous meeting.

Member Pipel: It's not the item that is continued, it's the meeting.

Member Wolfe: (e) talks about "items" of business not appearing

Member Pipel: OK if both the item was continued within a 5 day timeframe,

Member Craven: In addition, notice of the continuation shall be posted with the agenda of the prior meeting, specifying that a particular agenda item was continued to that meeting.

Member Pipel: It's still awkward. It still needs to be clear about which is the new meeting and which is the old meeting.

Mr. Darby: I will get that tape for Mr. Comstock to review.

Member Craven: Then we should continue this item to the next meeting.

Public Comment:

Emerik Kalman said that the brief summary requirement in Section 67.16 is not sufficient for minutes. He said that more than the action should be recorded.

Kimo Crossman reminded the members that he had requested a screen and projector were not provided and said that a 5-day notice is more reasonable than a 72-hour notice, especially since some agendas are posted close to weekends, and does not allow the public adequate time to learn about respond to actions.

Member Cauthen: the 72-hour notice works for items that come up to the wire, and while I believe

the 5 day notice would be optimal, it makes acting on recent changes, etc very difficult.

Member Pilpel: There are several ways to slice up the policy bodies. One way is the frequency of the meetings. Those bodies that meet weekly, a 3-day notice is appropriate, if they meet twice a month, or more, than 5 days is appropriate, and if they meet once a month, or at the call of the Chair, then 7 days would be appropriate.

Member Cauthen: I think a weeks notice would hamstring many committees, especially 7-days for advisory committees. For example, the CAC for the Library meets a few days after that Commission, and needs to respond to the actions of that body.

Member Wolfe: I agree with Mr. Pilpel, I know of many monthly meeting bodies that require 10 days notice. I think 7 days is more than adequate, and if a body can't get it together to get a notice together in that time frame, then so be it. They can always call a special meeting.

Member Cauthen: I would be strongly opposed to that, I know that groups I belong to or have served on would not be able to respond timely to matters if they were held to this requirement.

Member Comstock: Then we can leave this section open for further revisions if there are no objections? (None were heard.)

Member Wolfe: Is there a motivation to put this on the ballot for this year?

Member Comstock: that is our hope. Member Cauthen: I have the following language suggestion for this section:

Line 11: cross out "to residents residing within a specific area" after residents insert "within a specific area"

Line 15: "provide telephone, fax and email."

Line 17: cross out "or hearing"

Line 18: cross out "the public meeting or hearing"

Line 19: cross out "by the time the proceeding begins., insert instead "prior to the meeting.

Line 20: cross out "regarding the subject of the meeting or hearing that" and go on to the next line and a capital T for "These".

Public Comment regarding 67.7-1: Kimo Crossman suggested that the last sentence in Sub-section 3 also require the person's fax number and e-mail address.

Public Comment regarding 67.8-1: Kimo Crossman said that it is good the way it is set up.

(Regarding 67.9)

Member Pilpel: regarding 67.9 "be available to the public in sufficient quantities at the hearing commensurate with the anticipated number of people attending the hearing" this language means that if 200 people may show up at an EIR meeting, does that mean that 200 copies of an EIR shall be made available without the ability to recover costs?

Member Wolfe: School Board and City College do it all the time.

Member Pilpel: They chose to do it, but I'm not sure I want to burden Planning with such a requirement.

Member Wolfe: then you are not serving the public.

Member Pilpel: I don't think there is any requirement that agendas be made available to the public for free. There is a posting requirement, but not a free agenda requirement. I can't support this.

Member Pilpel: I would like language that says there will be copies of the non-privileged agenda packet available for review in the meeting room of a policy body, at least one.

Member Craven: "made available at least 48 hours prior to a meeting on the website.

Public review copies of the agenda and all the documents constituting the meeting packet shall be made available at the meeting in sufficient quantities commensurate with the number of people attending the meeting."

Member Wolfe: I'd like a ratio of 1 to 5

Member Craven: To move on, add unless demonstrably unfeasible. At the beginning of that sentence.

Member Pilpel: With regard to meeting packets, no objections to documents created by a department or received in conjunction with contracts being posted on the website, but sometimes these materials can be quite lengthy, especially in the case of the planning commission, a case report might make sense. Question does "demonstrably unfeasible" apply to each document or to the packet as a whole? I'm concerned about what is practical for the departments.

Member Comstock: This item is here because we heard complaints about Commissions adopting 2000 page plans at a meeting before which the plan was not available for public inspection.

Member Craven: "demonstrably feasible" is language which covers this problem.

Regarding 67.8-1(b)

Member Pilpel: I'm not sure a document is acted upon, maybe an issue? The section allowing one member of a policy body to delay a matter for 48 hours.

Member Knee: Line 12 insert the words "regarding an item" after the word document.

Member Wolfe: This language is clear. "Any document being acted upon."

Member Craven: we need to make this language clear.

Member Wolfe: subject to "adoption or approval"

Member Craven: "any document subject to adoption, approval or award by a policy body is not available 48 hours before the meeting at which the document is scheduled to be adopted, approved or awarded."

Member Pilpel: I just object to this because it gives too much weight to a single member of the body.

Member Pilpel: With regard to the 20/20 vision requirement. This is not in the current language.

Member Comstock: This came about because we received complaints about required documents being provided in such tiny print that they were illegible.

Member Pilpel: I think this can be moved to 67.13 or dropped.

Member Wolfe: there is a standard for text is 12pt type in ADA regulations.

Agreed to move to 67.13 "The materials that are distributed...reading them."

Member Pilpel: Can we move (d) to 67.28-9 so that all fee related items are in one place?

Member Craven: It is already there. But it is slightly different. This covers public records prepared for a public meeting.

Agreed to move to 67.28

Public Comment regarding 67.9 Kimo Crossman said that departments should be required to post packet contents in their original electronic format. He said that there already is a 10-day rule on 67.24 and that anyone should be able to invoke the 48-hour rule, not just a member of a policy body.

Sections 67.7 through 67.9 were discussed and the Administrator recorded recommended amendments.

Adjournment

The meeting was adjourned at 8:34 p.m.

This meeting has been audio recorded and is on file in the Office of the Sunshine Ordinance Task Force.

SUNSHINE ORDINANCE
TASK FORCE



City Hall
Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. (415) 554-7724
Fax No. (415) 554-7854
TDD/TTY No. (415) 554-5227

NOTICE

SUNSHINE ORDINANCE TASK FORCE
AGENDA

Tuesday, May 22, 2007
4:00 p.m., City Hall, Room 408

4:15 p.m. 2007
DOCUMENTS DEPT.

MAY 10 2007

SAN FRANCISCO
PUBLIC LIBRARY

This is a public notice that the Sunshine Ordinance Task Force, at their May 22, 2007 regular meeting will consider the following motion to amend Section 7 of their By Laws.

Motion amending Section 7 of the Task Force's By Laws as follows [~~Strikethroughs~~ = deletions; Underlines = additions]:

Section 7. Action at a Meeting; Quorum and Required Vote

The presence of a majority of the members (six members) of the Task Force shall constitute a quorum for all purposes. The affirmative vote of a majority of the members of the Task Force (~~six votes~~) present shall be required for the approval of all substantive matters. Procedural motions require an affirmative vote of a majority of the members present. If a quorum is not present, no official action may be taken, except roll call and adjournment.



Sunshine Ordinance Task Force



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-7724
Fax No. 554-7854
TDD/TTY No. 544-5227

<http://www.sfgov.org/sunshine/>

**SUNSHINE ORDINANCE TASK FORCE
AGENDA**

Tuesday, May 22, 2007
4:00 p.m., City Hall, Room 408

Task Force Members

Seat 1	Erica Craven (Vice Chair)	Seat 8	Bruce Wolfe
Seat 2	Richard Knee	Seat 9	Hanley Chan
Seat 3	Sue Cauthen	Seat 10	Nick Goldman
Seat 4	Vacant	Seat 11	Marjorie Ann Williams
Seat 5	Kristin Chu		
Seat 6	Doug Comstock (Chair)	Ex-officio	Vacant
Seat 7	David Pilpel	Ex-officio	Vacant

4:20 p.m. 256
DOCUMENTS DEPT

MAY 17 2007

SAN FRANCISCO
PUBLIC LIBRARY

Note: Each item on the Agenda may include minutes, department or agency letters and reports; Task Force reports; and public correspondence. These items will be available for review at City Hall, Sunshine Ordinance Task Force, Room 244.

Call to Order; Roll Call; Agenda Changes

1. Approval of minutes of April 24, 2007. (action item) (5 min) (attachment)
 2. Approval of minutes of May 8, 2007 Special Meeting. (action item) (5 min) (attachment)
 3. Supplemental Supervisor of Public Records Report (Dorji Roberts) (discussion and possible action) (10 minutes) (attachment)
 4. Report from Complaint Committee meeting of April 10, 2007, and May 8, 2007. (Sue Cauthen) (action item) (10 min) (attachment)
- 07020 Determination of jurisdiction of complaint filed by Patrick Monette-Shaw against the Department of Public Health for alleged failure to post meeting notices and minutes, and denial of request to be added to their e-mail distribution list for agenda notices. (action item)
- 07021 Determination of jurisdiction of complaint filed by Kimo Crossman against the Sunshine Ordinance Task Force Administrator and the Clerk of the Board for alleged refusal to provide public records in original electronic format on the City web site. (action item)

- 07027 Determination of jurisdiction of complaint filed by Kimo Crossman against the Small Business Commission (SBC) and Martha Yanez for alleged failure to provide e-mail addresses of the SBC Commissioners. (action item)
5. 07015 Continued request by Ming Lee that the Task Force consider her appeal from the Complaint Committees failure to find jurisdiction of her complaint against La Casa De Las Madres and the Department on the Status of Women for alleged failure to produce a service agreement in violation of Section 12L of the City Administrative Code. (action item) (20 min) (attachment)
6. 07020 Public Hearing, complaint filed by Patrick Monette-Shaw against the Department of Public Health for alleged failure to post meeting notices and minutes, and denial of request to be added to their e-mail distribution list for agenda notices. (action item) (30 min) (attachment)
7. 07021 Public Hearing, complaint filed by Kimo Crossman against the Sunshine Ordinance Task Force Administrator and the Clerk of the Board for alleged refusal to provide public records in original electronic format on the City web site. (action item) (30 min) (attachment)
8. 07027 Public Hearing, complaint filed by Kimo Crossman against the Small Business Commission (SBC) and Martha Yanez for alleged failure to provide e-mail addresses of the SBC Commissioners. (action item) (30 min) (attachment)
9. Report: Compliance and Amendments Committee: meeting of May 9, 2007. (Richard Knee). (discussion and possible action) (5 min) (attachment)
10. 07008 The Compliance and Amendments Committee has referred to the Task Force for further consideration their recommendation that the Public Utilities Commission be found in willful misconduct for failure to comply with the Sunshine Ordinance, and failure to comply with the Order of Determination issued by the full Task Force on March 27, 2007; that potential referral, based on that finding, to another appropriate body be considered. (discussion and possible action) (15 min) (attachment)
11. 07009 The Compliance and Amendments Committee has referred to the Task Force for further consideration their recommendation that the Mayor's Office be found in willful misconduct for failure to comply with the Sunshine Ordinance, and failure to respond to the Order of Determination issued by the full Task Force on March 27, 2007. (discussion and possible action) (15 min) (attachment)
12. 07011 The Compliance and Amendments Committee has referred to the Task Force for further consideration their recommendation that the Sheriff's Office be found in willful misconduct for failure to comply with the Sunshine Ordinance, and failure to respond to the Order of Determination issued by the full Task Force on April 24, 2007; that potential referral, based on that finding, to the Ethics Commission be considered. (discussion and possible action) (15 min) (attachment)

13. 07023 The Compliance and Amendments Committee has referred to the Task Force for further consideration their recommendation that the Department of Telecommunications and Information Services be found in willful misconduct for failure to comply with the Sunshine Ordinance, and failure to respond to the Order of Determinations issued by the full Task Force on January 23, 2007; that potential referral, based on that finding, to the Ethics Commission be considered. (discussion and possible action) (15 min) (attachment)
14. Election of Officers: Chair and Vice-Chair (action item) (10 minutes) (no attachment)
15. Motion adding Sub-Section B. 8. (a) and (b) to the Task Forces Complaint Procedures: (a) A complainant may waive the 45 day rule and a continuance shall be allowed. Should the complainant again wish to continue, such continuance shall be by a simple majority vote of the members present. (b) A respondent named as an individual may request a continuance once, and upon agreement of the complainant the matter will be continued. If the complainant does not agree to the continuance requested, such continuance must be put to a vote and be approved by a simple majority vote of the members present. (discussion and possible action) (15 min) (attachment)
16. Motion amending Section 7 of the Task Force's By Laws as follows
[Strikethroughs = deletions; Underlines = additions]:

Section 7. Action at a Meeting; Quorum and Required Vote

The presence of a majority of the members (six members) of the Task Force shall constitute a quorum for all purposes. The affirmative vote of a majority of the members of the Task Force (~~six votes~~) present shall be required for the approval of all substantive matters. Procedural motions require an affirmative vote of a majority of the members present. If a quorum is not present, no official action may be taken, except roll call and adjournment. (discussion and possible action) (15 min) (attachment)

17. Discussion re: a stylistic/formatting revision of the Complaint Procedures (discussion and possible action) (no attachment)
18. Discussion re: the Ethic Commission's records of closed investigations. (discussion and possible action) (no attachment)
19. Scheduling: Special Meeting of the Task Force to consider amendments referred from the Compliance and Amendments Committee §67.10 through 67.17 (action item) (no attachment)
20. Administrator's Report. (discussion) (5 minutes) (attachment)
21. Public comment for items not listed on the agenda. Public comment to be held at 5:00 p.m., or as soon thereafter as possible. (no action item) (12 min)
22. Announcements, questions, and future agenda items from the Task Force. (no action item) (5 min) (no attachment)

Adjournment

Next Meeting June 26, 2007

SUNSHINE ORDINANCE TASK FORCE HEARING PROCEDURES

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations. Any person speaking during a public comment period may supply a brief written summary of their comments, which shall, if no more than 150 words, be included in the minutes. (Section 67.16)

Each member of the public who is unable to attend the public meeting or hearing may submit to the City, by the time the proceeding begins, written comments regarding the subject of the meeting or hearing; these comments will be made a part of the official public record. (Section 67.7-1 (c))

- | | | |
|----|---|----------------------|
| 1. | Complainant presents his/her facts and evidence | 5 minutes |
| | Other parties present facts and evidence | Up to 3 minutes each |
| 2. | City responds | 5 minutes |
| | Other parties of City respond | Up to 3 minutes each |

Above total speaking time for Complainant and City to be the same

- | | | |
|----|--|----------------------|
| 3. | Complainant presents rebuttal | 3 minutes |
| 4. | Public comment
(Excluding Complainant & City response, witnesses) | Up to 3 minutes each |
| 5. | Matter is with the Task Force for discussion and deliberation | |
| 6. | Vote by Task Force | |

Note: Time must be adhered to, if a speaker is interrupted by questions, the interruption does not count against his/her time.

Disability Access: The hearing room is wheelchair accessible.

Chemical-Based Products: In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals.

Cell phones, pagers and similar sound-producing electronic devices: The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decision in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact Frank Darby by mail to Administrator, Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102-4689; by phone at 415 554 7724; by fax at 415 554 7854; or by email at sotf@sfgov.org.

Citizens interested in obtaining a free copy of the Sunshine Ordinance can request a copy from Mr. Darby or by printing Chapter 67 of the San Francisco Administrative Code on the Internet, <http://www.sfgov.org/sunshine/>

Lobbyist Registration & Reporting Requirements

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance (SF Campaign & Governmental Conduct Code Sec. 2.100) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415 581-2300; fax (415 581-2317); web site: sfgov.org/ethics.

TEXT ONLY:



PRINT:



TEXT SIZE:



May 22, 2007

DOCUMENTS DEPT.

JUN - 9 2008

SAN FRANCISCO
PUBLIC LIBRARY**SUNSHINE ORDINANCE TASK FORCE
MINUTES****Tuesday, May 22, 2007
4:00 p.m., City Hall, Room 408****Task Force Members**

Seat 1	Erica Craven (Vice Chair)	Seat 8	Bruce Wolfe
Seat 2	Richard Knee	Seat 9	Hanley Chan
Seat 3	Sue Cauthen	Seat 10	Nick Goldman
Seat 4	Vacant	Seat 11	Marjorie Ann Williams
Seat 5	Kristin Chu		
Seat 6	Doug Comstock (Chair)	Ex-officio	Vacant
Seat 7	David Pilpel	Ex-officio	Vacant

Call to Order The meeting called to order at 4:03 P.M.

Roll Call Present: Craven, Knee, Cauthen (out at 7:00), Chu, Comstock, Pilpel, Wolfe, Chan, Goldman, Williams

Agenda Changes: Items #21 was heard after item #4**Deputy City Attorney:** Ernie Llorente**Administrator:** Frank Darby**Agenda Changes:**

Chair Comstock asked to continue item #3 to the next special meeting, without objection.

Kimo Crossman requested a continuance of item #8 (07027) to allow him time to review the response from the City Attorney.

Michael Farrah said that he is ready to move forward, and that he does not see any hope of a resolution by delaying the matter.

Member Craven said that the item should not be continued and urged the Task Force to hear the matter.

Motion to continue item #8. (Comstock / Goldman)

Ayes: Comstock

Noes: Craven, Knee, Cauthen, Chu, Pilpel, Wolfe, Chan, Goldman, Williams

Kimo Crossman withdrew his complaint (#07027)

1. Approval of minutes of April 24, 2007.

Chair Comstock informed the Task Force that he was submitting technical corrections to the minutes to the Administrator.

Speakers: None

Motion to approve minutes of April 24, 2007, as amended. (Pilpel / Knee)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Wolfe, Chan, Goldman, Williams

2. Approval of minutes of May 9, 2007, Special Meeting.

Speakers: None

Continued to the June 13, 2007 Special meeting of the Task Force.

3. Supplemental Supervisor of Public Records Report

Deputy City Attorney Dorji Roberts made the report. He said that Paul Jessen is now the new Supervisor of Records, and that the CAO is committed to Open Government. He said that he submitted, to the Administrator, a box containing 2500 pages of e-mails between himself and Mr. Crossman, which he discussed with the Task Force. He said that Mr. Crossman is abusing the Ordinance and has crossed the line.

Chair Comstock said that the supplemental report appears to be a legal brief directed against a specific person and that it should be a passionless, matter of fact report on the matters encountered by the CAO.

Member Craven said that the supplemental report incorporated the complaint that was filed against the City Attorney's Office (CAO) and that the report needed to be severed from the complaint.

Member Pilpel asked if there were better ways for the public to inquire about and/or gain access to the Supervisor of Records Report. DCA Roberts responded that the CAO will consider posting on the Web.

Member Wolfe asked if the CAO's response was directed against the one person because they are exercising their rights or because they are less intimidated? DCA Roberts responded that the CAO is not targeting an individual, but that they are noting obvious abuse. He said that there is an implied rule of reasonableness with regards to responses to complaints.

Chair Comstock asked about the use of the term "Implied Rule of Reasonableness." DCA Llorente said that it is a common term, and that he can provide court cases that indicate the use of the term.

Speakers: Kimo Crossman said that the "Rule of Reasonableness" refers to requests made for records that were not in a person's possession. He said that DCA Roberts is difficult to work with and does not respond within 10 days as required under the ordinance. He said that the e-mails also include DCA Robert's lengthy responses, and that the CAO won't provide the documents in Word format.

4. Report from Complaint Committee meeting of April 10, 2007, and May 8, 2007.

Member Cauthen made the report. She said that the Committee discussed the motion regarding continuances, stylistic changes to the complaint procedures, the amount of pages that parties to a complaint can file, and will consider adjusting the timeframe that departments have to respond to complaints.

Member Pilpel asked for the wording regarding the 75-page rule. The Administrator referred him to Section B (5) of the Complaint Procedures.

DCA Llorente said that the Committee also discussed parties providing a summary of the documents that they are submitting.

Member Wolfe said that the Complainant can file as many pages as they like however, only 75 will be included in the packet.

Member Pilpel said that he is interested in getting to "the meat of the matter" and prefers less paper.

Member Williams said that she prefers to see the full exhibits without limitations.

Speakers: Louis Dillion said that the Task Force needs to help complainants deal with their decision or ruling after an Order of Determination has been issued. He said that when he filed his complaint, there was no follow through to ensure that the violation did not reoccur.

Member Pilpel asked Mr. Dillion to explain the instance where this occurred. Mr. Dillion responded that he did not get a hearing before the Compliance and Amendments Committee (CAC).

Ming Lee said that at the April 24, meeting the Respondents agreed to provide documents, but that they did not provide them. She said that she doesn't feel that she was provided proper guidance by the Task Force, and that she did not receive the e-mail notice from the Administrator.

Member Pilpel asked if the Complaint Committee could review the procedures to indicate that all Order of Determinations (OD) will be reviewed by the CAC.

Member Knee asked the Administrator if this was already being done. The Administrator responded that OD's are being reviewed by the CAC

Member Wolfe asked whether the Rules Committee should consider the matter. Chair Comstock responded that the matter was procedural and did not require a rule change.

Member Cauthen asked the Administrator to agendize a discussion regarding the review of Order of Determinations at the next Complaint Committee meeting.

- 07020 Determination of jurisdiction of complaint filed by Patrick Monette-Shaw against the Department of Public Health for alleged failure to post meeting notices and minutes, and denial of request to be added to their e-mail distribution list for agenda notices.

Speakers: None

Motion to accept jurisdiction. (Cauthen / Goldman)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Wolfe, Chan, Goldman, Williams

- 07021 Determination of jurisdiction of complaint filed by Kimo Crossman against the Sunshine Ordinance Task Force Administrator and the Clerk of the Board for alleged refusal to provide public records in original electronic format on the City web site.

Speakers: None

Motion to accept jurisdiction. (Cauthen / Goldman)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Wolfe, Chan, Goldman, Williams

- 07027 Determination of jurisdiction of complaint filed by Kimo Crossman against the Small Business Commission (SBC) and Martha Yanez for alleged failure to provide e-mail addresses of the SBC Commissioners.

Previously withdrawn.

5. 07015 Continued request by Ming Lee that the Task Force consider her appeal from the Complaint Committees failure to find jurisdiction in her complaint against La Casa De Las Madres and the Department on the Status of Women for alleged failure to produce a service agreement in violation of Section 12L of the City Administrative Code.

Speakers: Ming Lee, Complainant, said that she did not want to meet with the DOSW and that there is a conflict in the e-mails regarding the recording of the meeting. Respondents: Emily Murase (DOSW), said that she submitted grievance procedures to the Task Force as requested, and that a

letter was sent to Ms. Lee to discuss scheduling a meeting. She said that a memorandum of understanding was developed in response to this complaint.

Member Pilpel asked Ms. Lee if a meeting had occurred. Ms. Lee responded that she did not meet with DOSW. She said that this complaint does not fall under 12L, that she want the DCA Mary Marley present at the meeting, and that she wants to meet at the Homeless Advocacy office.

Ms. Murase said that she did not object to inviting DCA Marley to attend the meeting or meeting in another location.

Chair Comstock informed Ms. Lee that the Task Force can't accept jurisdiction until a meeting has occurred. The parties were encouraged to meet and to notify the Administrator that the meeting has occurred.

Allen Grossman said that the City Attorney and Ms. Murase who are paid employees should accommodate Ms. Lee.

Continued to the call of the Chair, by consensus of the Task Force.

6. 07020

Public Hearing, complaint filed by Patrick Monette-Shaw against the Department of Public Health for alleged failure to post meeting notices and minutes, and denial of request to be added to their e-mail distribution list for agenda notices.

Speakers: Patrick Monette Shaw, Complainant, said that the Assisted Living Work Group (ALWG) and the Transition Steering Committee (TAC) are Policy Bodies and that they are not posting agendas and minutes and refuse to add him to their mailing list. Larry Funk, Respondent, referred the members to the letter from John Kanaley on page 142 of the packet and said that ALWG and TAC are not Policy Bodies, but are groups formed by his (Funks) own initiative and not the Mayor or the Department head.

Mr. Shaw in rebuttal said that under Section 67.4 (a)(5) the bodies are passive meeting bodies and that he should have been placed on the mailing list to receive notices about their meetings and allowed access to future meetings.

Kimo Crossman said that according to Section 67.3 (c)(5) that the groups are passive meeting bodies, even if it's only City employees in attendance.

Mr. Funk, in response to questions from Member Pilpel, gave an overview of the ALWG and the TAC.

Member Craven asked Mr. Funk when the groups meet and who formed them. Mr. Funk indicated that he formed the both groups and that the TAC meets the first Tuesday of each month and the ALWG meets "sporadically."

Chair Comstock asked Mr. Funk if the meetings were held on City property. Mr. Funk responded that all but one meeting was held on City property.

Mr. Funk, in response to questions from Member Pilpel, said that Mr. Shaw had requested and has been allowed to attend the meetings. He said that he has no objection to attendance by the public, treating the groups as passive meeting bodies, making their agendas available, or adding Mr. Shaw to their mailing list, pending approval by Director Kanaley.

Mr. Shaw, in response to questions from Member Pilpel, said that he is agreement with Mr. Funk's response.

Member Williams asked Mr. Funk about the composition of the groups. Mr. Funk responded that the groups are diverse and consist of senior citizens, individuals with ADA, minorities, etc.

Member Cauthen asked Mr. Funk if he anticipates any objections form Mr. Kanaley. Mr. Funk responded that he does not anticipate an objection. Member Cauthen confirmed with Mr. Shaw that he wanted notice of the meeting and the ability to attend. Mr. Shaw said that most attendees are providers and not consumers.

Motion that a letter be sent asking the Department to treat the ALWG and the TAC as if they were passive bodies for purposes of attendance and that e-mail notification be sent to Mr. Shaw and others that might request notification. The Department is directed to post meeting notices on their web site, and provide a written response within 5 business days. Mr. Funk has agreed to take such action pending approval by John Kanaley. (Pipel / Cauthen)

Chair Comstock said that he believes that the groups are passive meeting bodies, and that they are considering policy as an advisory body. He said that there is no reason for them to meet behind closed doors.

Motion finding that the Assisted Living Work Group and the Transition Steering Committee are passive meeting bodies, and that the Department violated §67.4(a)(5) of the Ordinance for failing to conduct the meetings as passive meeting bodies. (Craven / Chu)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Chan, Goldman, Williams

Noes: Pipel

Excused Absent: Wolfe

7. 07021 Public Hearing, complaint filed by Kimo Crossman against the Sunshine Ordinance Task Force Administrator and the Clerk of the Board for alleged refusal to provide public records in original electronic format on the City web site.

Speakers: Kimo Crossman, Complainant, said that the Administrator refused to post the amendments on the City web site in Word format as was requested by Chair Comstock at the Compliance and Amendments Committee (CAC). He said that the revised policy limits the formats for posting documents. Allen Grossman said that the Administrator makes it difficult for him and others to make the simplest requests. Frank Darby, Respondent, said that Mr. Crossman requested that he post the proposed amendments to the Ordinance from the March 14, CAC meeting online, prior to the document's existence. He said that after the document was created it was posted on the Internet and members of the CAC were notified.

Mr. Crossman, in rebuttal, said that it is not in the spirit of the Sunshine Ordinance to say that the document did not exist and that he should not have to file a complaint about this matter.

Member Craven asked the Administrator if it is feasible to post digital audio on the City's web site. The Administrator said no and that it is the Department of Telecommunication and Information Services' policy.

Member Craven asked the Administrator to send a copy of that policy to the Task Force Members and to Mr. Crossman.

Motion finding no violation. (Goldman / Pipel)

Ayes: Craven, Knee, Chu, Comstock, Pipel, Chan, Goldman, Williams

Excused Absent: Cauthen, Wolfe

8. 07027 Public Hearing, complaint filed by Kimo Crossman against the Small Business Commission (SBC) and Martha Yanez for alleged failure to provide e-mail addresses of the SBC Commissioners.

Previously withdrawn.

9. Report: Compliance and Amendments Committee: meeting of May 9, 2007.

Member Knee made the report.

Speakers: Kimo Crossman said that he was disappointed by the representative from the Office of Contact Administration (OCA). He said that OCA is clearly violating the Ordinance, but that people won't sue them because if they do they won't get a contract with the City.

Member Knee said that he will ask the OCA to attend another CAC meeting because the Committee

has more questions.

10. 07008 The Compliance and Amendments Committee has referred to the Task Force for further consideration, their recommendation that the Public Utilities Commission be found in willful misconduct for failure to comply with the Sunshine Ordinance, and failure to comply with the Order of Determination issued by the full Task Force on March 27, 2007; that potential referral, based on that finding, to another appropriate body be considered.
- Member Craven recused herself.
- Speakers: Kimo Crossman, Complainant, urged the Task Force to refer the matter for willful failure. Michael Housh, Respondent, said that the home contact information of Commissioners are protected information and are not subject to disclosure. He said that all of the Commissioners have a public e-mail address that the public can use.
- Member Pilpel disclosed that he is a friend of Mr. Housh, but feels that he can be fair and impartial.
- Member Pilpel asked DCA Llorente to explain the Task Force's responsibility with regards to due process for notifying parties of possible referrals for willful failure. DCA Llorente responded that the Executive Office of the Department who sends someone to represent him or her before the Task Force can be held responsible and referred if the Task Force finds a violation and determines that there was willful failure.
- Motion finding Tony Winnicker has willfully failed to disclose requested documents and that this matter be referred to the Ethics Commission. (Knee / Goldman)
- Chair Comstock said that although there is a violation he doesn't think that it rises to the level of referral to the Ethics Commission. That this is essentially a battle between the Task Force and the City Attorney's Office, who are advising Departments. He recommended that no action be taken.
- Ayes: Chu, Goldman
- Noes: Knee, Comstock, Pilpel, Chan, Williams
- Recused: Craven
- Excused Absent: Cauthen, Wolfe
- No further action taken.
11. 07009 The Compliance and Amendments Committee has referred to the Task Force for further consideration, their recommendation that the Mayor's Office be found in willful misconduct for failure to comply with the Sunshine Ordinance, and failure to respond to the Order of Determination issued by the full Task Force on March 27, 2007.
- Member Pilpel asked if a letter had been written to the Mayor's office requesting a response and a technical representative.
- Chair Comstock responded that a letter had not been written. He asked the Administrator if the Mayor's Office was notified of the meeting. The Administrator responded that he sent an e-mail notice and he spoke with Joe Arellano regarding the meeting and that Mr. Arellano planned to attend the meeting. He said that Mr. Arellano was not certain whether their IT person would be available to attend the meeting.
- Member Pilpel said that the Mayor's IT person is the most knowledgeable person that the Task Force needs to hear from.
- Chair Comstock said that his understanding was that in lieu of writing the letter that they would invite the Mayor's IT person to the meeting, and after getting the information the Task Force would then write a letter to the Mayor. He said that the Task Force needs the IT person in order to move forward.
- Motion to continue this item to the next meeting. (Comstock/Pilpel)

Member Craven said that appearance by the IT person would be helpful because they have a lot of questions regarding the destruction of records, and what are the backup policies.

Speakers: Kimo Crossman, Complainant, asked that the matter be referred to the Ethics Commission. He suggested that someone from DTIS appear to discuss their backup procedures and that a written policy from DTIS be provided, because the Mayor's IT person will not be able to answer questions.

The Administrator was asked to invite Joe Arellano, the Mayor's Office's IT person and a representative of DTIS who is familiar with the e-mail systems backup and retrieval procedures to attend the next Task Force meeting to discuss this matter.

Continued by consensus of the Task Force

12. 07011

The Compliance and Amendments Committee has referred to the Task Force for further consideration, their recommendation that the Sheriff's Office be found in willful misconduct for failure to comply with the Sunshine Ordinance, and failure to respond to the Order of Determination issued by the full Task Force on April 24, 2007; that potential referral, based on that finding, to the Ethics Commission be considered.

Member Chan (previously recused) left the group.

Speakers: Kimo Crossman, Complainant, urged the Task Force to find a violation for willful failure and official misconduct and that the matter be referred to the Ethics Commission.

Ming Lee asked what the recourse is when the Task Force finds willful failure or official misconduct. Chair Comstock responded that the matter is forwarded to another body (Ethics, District Attorney, Attorney General) for further action

Member Knee said that this complaint merits a referral since the respondent has clearly stated that they will not comply with the Order of Determination.

Chair Comstock said that a referral to the Ethics Commission, District Attorney, or Attorney General will not be helpful. He said that referral to the Board of Supervisors may be helpful.

Member Craven said that the difficulty is that the Sunshine Ordinance does not clearly cover this case. She said that she doesn't believe that the Ethics Commission will do anything because the Sheriff's Office and the Task Force have different interpretations of the law; however, the Board of Supervisors may decide to weigh in on this matter as to whether or not they agree.

Member Williams urged that the matter be referred to the Board

Member Pilpel said that the language of the item is not clear as to whether the Task Force is finding a violation or is making a referral.

Member Craven said that the Task Force may find the Sheriff's Office in willful failure to be official misconduct for its failure to comply and/or refer it.

Chair Comstock asked if the Board of Supervisors had enforcement powers. DCA Llorente responded that the Board had some enforcement powers.

Member Pilpel recommended that a letter be written to the Board making them aware of this matter an urging an investigation.

DCA Llorente, in response, recommended that a letter be sent to the Board of Supervisors letting them know that: the Task Force has issued an Order of Determination (OD) and have tried to work with the Sheriff's Office to have compliance with the OD but have been unable to achieve compliance. The Sheriff's Office is steadfast in their belief that they have legal grounds to refuse to release video taped records, which were recorded in City Hall. We believe that there is legal basis to grant their release. This is an issue of importance to the public. We are at an impasse and need your assistance. We ask that the Board of Supervisors investigate this matter and recommend appropriate action.

Motion that a letter be written referring this matter to the Board of Supervisors (Comstock / Chu)

Ayes: Craven, Knee, Chu, Comstock, Goldman, Williams

Noes: Pilpel

Recused: Chan

Excused Absent: Cauthen, Wolfe

Chair Comstock asked the Administrator to assist him with drafting the letter.

13. 07023 The Compliance and Amendments Committee has referred to the Task Force for further consideration their recommendation that the Department of Telecommunications and Information Services be found in willful misconduct for failure to comply with the Sunshine Ordinance, and failure to respond to the Order of Determinations issued by the full Task Force on January 23, 2007; that a potential referral, based on that finding, be sent to the Ethics Commission be considered.

Member Craven recused herself.

Speakers: Kimo Crossman, Complainant, urged a finding of willful failure of the Ordinance against Christ Vein and Ron Vinson

Member Pilpel said that he does not feel that further action is warranted.

Member Knee said that he isn't sure where the complaint can be sent to ensure an investigation. He said this is about whether the records were provided to the satisfaction of the complainant, and that the best course might be to refer it to the Ethics Commission.

Motion finding the Department of Telecommunications and Information Services through its officers Chris Vein and Ron Vinson for willful failure for failing to comply with the Sunshine Ordinance. The Task Force refers this matter to the Ethics Commission for investigation and remedy to the extent that the Commission deems appropriate. (Knee / Goldman)

Ayes: Knee, Chu, Comstock, Chan, Goldman, Williams

Noes: Pilpel

Recused: Craven

Excused Absent: Cauthen; Wolfe

14. Election of Officers: Chair and Vice-Chair

DCA Llorente served as moderator.

Nominations for Chair: Members Comstock and Craven. Member Craven declined the nomination.

A. Chair Nomination: Member Comstock

Ayes: Craven, Knee, Chu, Comstock, Chan, Goldman, Williams

Noes: Pilpel

Excused Absent: Cauthen, Wolfe

Member Pilpel, in explaining his vote, said he believes it is appropriate to rotate officers from time to time since Member Comstock has served as Chair for two consecutive years.

B. Vice Chair Nomination: Member Craven

Ayes: Craven, Knee, Chu, Comstock, Chan, Goldman, Williams

Noes: Pilpel

Excused Absent: Cauthen, Wolfe

Member Pilpel said that the reason for his vote is as previously stated.

15. Motion adding Sub-Section B. 8. (a) and (b) to the Task Forces Complaint Procedures: (a) A complainant may waive the 45 day rule and a continuance shall be allowed. Should the complainant again wish to continue, such continuance shall be by a simple majority vote of the members present.

(b) A respondent named as an individual may request a continuance once, and upon agreement of the complainant the matter will be continued. If the complainant does not agree to the continuance requested, such continuance must be put to a vote and be approved by a simple majority vote of the members present.

Speakers: Kimo Crossman suggested that the matter be continued to allow time to consider the revised language. He said that he is concerned about the Departments ability to request a continuance.

Motion to continue. (Pipel / Williams)

Ayes: Pipel, Williams

Noes: Craven, Knee, Chu, Comstock, Wolfe, Goldman

Absent: Chan

Excused Absent: Cauthen

Motion adding Sub-Section B. 8. (a) and (b) to the Task Forces Complaint Procedures: (a) A complainant may waive the 45 day rule and if a request for continuance is submitted at least three business days in advance of the scheduled hearing it shall be granted. For request submitted less than three business days in advance or for request for subsequent continuances, the request shall be granted by a simple majority vote of the members present.

(b) If a respondent submits a request for continuance at least three business days in advance upon agreement of the complainant the continuance shall be granted. If the complainant does not agree to the continuance, the request for continuance is not made within three business days, or the respondent is requesting a subsequent continuance, such continuance shall be granted by a simple majority vote of the members present. (Wolfe / Chu)

Ayes: Craven, Knee, Chu, Comstock, Pipel, Wolfe, Chan, Goldman, Williams

Excused Absent: Cauthen

16. Motion amending Section 7 of the Task Force's By Laws as follows [Strikethroughs = deletions; Underlines = additions]:

Section 7. Action at a Meeting; Quorum and Required Vote

The presence of a majority of the members (six members) of the Task Force shall constitute a quorum for all purposes. The affirmative vote of a majority of the members of the Task Force (six votes) present shall be required for the approval of all substantive matters. Procedural motions require an affirmative vote of a majority of the members present. If a quorum is not present, no official action may be taken, except roll call and adjournment.

DCA Llorente provided a review of the documents that were provided.

Member Craven said that she needs more information about changing the Task Force to a Commission.

Member Knee said changing the Task Force to a Commission requires a charter amendment and that the Mayor appoints Commission members, which would also require a charter amendment.

Speakers: Kimo Crossman said that the Task Force is a unique body and is not a Board or Commission. He urged the passage of the agendaized language.

Chair Comstock proposed the following amendment to the By Laws.

Section 7. Action at a Meeting; Quorum and Required Vote

The presence of a majority of the members (six members) of the Task Force shall constitute a quorum for all purposes. The affirmative vote of a majority of the members of the Task Force (six votes) shall be required for the approval of all substantive matters. Procedural motions require an affirmative vote of a majority of the members present. if less than nine members are present and available to vote a complainant may request a continuance and the matter shall be continued. If a quorum is not present, no official action may be taken, except roll call and adjournment.

Chair Comstock asked the Administrator to agendize this matter for the next Task Force meeting.

Continued by consensus of the Task Force

Speakers: Kimo Crossman said that the Task Force is a unique body and not a Board or Commission. He said that they don't have to follow the advice of the City Attorney's Office. He said that the concern is about the six-vote requirement for an Order of Determination and not about hearing the complaint. He urged the passage of the agendized language.

17. Discussion re: a stylistic/formatting revision of the Complaint Procedures

Member Knee discussed his suggested changes.

Speakers: Kimo Crossman suggested that the language on §B.2 that requires Departments to submit a response be spelled out in a separate sentence so that it is clear, and that a response be required 5 days after a complaint is filed.

Motion to accept the stylistic/formatting revisions recommended by Member Knee. Members are instructed to submit non-substantive corrections to the Administrator. (Craven / Pilpel)

Ayes: Craven, Knee, Chu, Comstock, Pilpel, Wolfe, Chan, Goldman, Williams

Excused Absent: Cauthen

18. Discussion re: the Ethic Commission's records of closed investigations.

Chair Comstock said that he, as an individual, requested copies of the records of investigations of matters that the Task Force referred to the Ethics Commission for the past 5 years, but his request was denied. He asked the Task Force how they might want to proceed.

Member Pilpel asked Chair Comstock to explain the purpose for his request, and asked if there were any other process for getting the information.

Chair Comstock responded that the information would help the Task Force to better prepare support documentation for future matters that the Task Force refer to the Ethics Commission. He said that the CAC spoke with Executive Director John St. Croix of the Ethics Commission who said that they would not provide the documents.

Members Williams urged Member Pilpel to use his connections with Departments to assist the Task Force with getting the information that it needs so that they can help their constituents.

Member Craven asked if the Sunshine Ordinance trumps the Ethic Commissions statues. DCA Llorente said that it was possible only by charter amendment.

Member Wolfe asked if enforcement bodies to which the Task Force refers matters are required to carry out the Task Force's recommendation. Member Craven said that they are not required to carry them out.

Speakers: Kimo Crossman said that the Sunshine Ordinance supercedes all other laws and that Prop G allows access to closed files.

No action taken.

19. Scheduling: Special Meeting of the Task Force to consider amendments referred from the Compliance and Amendments Committee §67.10 through 67.17.
- Speakers: None
- By consensus, the Task Force scheduled its next special meeting for Wednesday, June 13, 2007 at 5 PM.
- Member Knee said that the CAC will reschedule it meeting to begin at 3:00 PM
20. Administrator's Report.
- The Administrator made the report.
- Speakers: Kimo Crossman said that the Administrator is not keeping an inquiry log, which is needed for budgeting, to justify his position and to meet performance measures.
- Member Pilpel said that the Administrators Report list the number of calls, e-mails, etc that he responds to.
- Member Williams commended the Task Force and the Administrator for their hard work and services that they provide to the public.
21. Public comment for items not listed on the agenda. Public comment to be held at 5:00 p.m., or as soon thereafter as possible.
- Speakers: Kimo Crossman recommended that the Ordinance be revised to allow Seat 4 to be filled by another body other than New America Media. He said that its not fair for the City Attorney's Office (CAO) to help departments provide written responses to complaints because it's difficult for Complainants to respond to. He said that the SOTF office hours are still 7-4 and alleged that the public is being "ripped off."
- Ming Lee asked if the Task Force could start its meetings at 5 PM or 5:30 PM to make it easier for working Complainants to attend the meetings.
- Chair Comstock asked the Administrator if staff are available to clerk meetings after 5 PM. The Administrator responded that staff is available and that the normal practice of the Task Force is, upon request, to delay a matter until later in the meeting to allow all parties to attend.
- Member Knee said that New America Media is an organization of news outlets that are minority owned and that their seat is to help ensure that there is diverse community representation on the Task Force.
- Member Craven Said that it's wonderful to have someone from the minority press. She said that the Task Force may need to look at how it can broaden the scope so that they can participate more.
22. Announcements, questions, and future agenda items from the Task Force.
- Member Pilpel asked that a Budget meeting be scheduled. He said that he will work with the Administrator to draft the Annual Report. He asked the Administrator to list Kay Gulbengay as the Ex-officio member. He asked Chair Comstock if Angela Calvillo could be invited to the July meeting of the Task Force.
- Chair Comstock said that they could.
- Speakers: None

Adjournment

The meeting was adjourned at 9:27 p.m.

This meeting has been audio recorded and is on file in the Office of the Sunshine Ordinance Task Force.

Sunshine Ordinance Task Force



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-7724
Fax No. 554-7854
TDD/TTY No. 544-5227

<http://www.sfgov.org/sunshine/>

**SUNSHINE ORDINANCE TASK FORCE
SPECIAL MEETING
AGENDA**

Wednesday, June 13, 2007
5:00 p.m., City Hall, Room 406

11:30 a.m. 2007
DOCUMENTS DEPT.

JUN - 7 2007

Task Force Members

Seat 1	Erica Craven (Vice Chair)	Seat 8	Bruce Wolfe
Seat 2	Richard Knee	Seat 9	Hanley Chan
Seat 3	Sue Cauthen	Seat 10	Nick Goldman
Seat 4	Vacant	Seat 11	Marjorie Ann Williams
Seat 5	Kristin Chu		
Seat 6	Doug Comstock (Chair)	Ex-officio	Vacant
Seat 7	David Pilpel	Ex-officio	Vacant

SAN FRANCISCO
PUBLIC LIBRARY

Note: Each item on the Agenda may include minutes, department or agency letters and reports; Task Force reports; and public correspondence. These items will be available for review at City Hall, Sunshine Ordinance Task Force, Room 244.

Call to Order; Roll Call; Agenda Changes

1. Approval of minutes of May 8, 2007 Special Meeting. (action item) (attachment)
2. Report from the Chair on meeting with Supervisors to move the amendments. (discussion) (no attachment)
3. Possible amendments to Sections 67.7 and 67.10 to 67.17 of the Sunshine Ordinance and subsequent sections as time permits. (discussion and possible action item) (attachment)
 - (a.) Sec 67.7 Agenda Requirement; Regular Meetings.
 - (b.) Sec 67.10 Closed Sessions: Permitted Topics.
 - (c.) Sec 67.11 Statement and Reasons for Closed Sessions.
 - (d.) Sec 67.12 Disclosure of Closed Session Discussions and Actions.
 - (e.) Sec 67.13 Barriers to Attendance Prohibited.
 - (f.) Sec 67.14 Tape Recording, Filming and Still Photography.
 - (g.) Sec 67.15 Public Testimony.
 - (h.) Sec 67.16 Minutes
 - (i.) Sec 67.17 Public Comment by Members of Policy Bodies.

Adjournment

SUNSHINE ORDINANCE TASK FORCE HEARING PROCEDURES

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations. Any person speaking during a public comment period may supply a brief written summary of their comments, which shall, if no more than 150 words, be included in the minutes. (Section 67.16)

Each member of the public who is unable to attend the public meeting or hearing may submit to the City, by the time the proceeding begins, written comments regarding the subject of the meeting or hearing; these comments will be made a part of the official public record. (Section 67.7-1 (c))

- | | |
|--|----------------------|
| 1. Complainant presents his/her facts and evidence | 5 minutes |
| Other parties present facts and evidence | Up to 3 minutes each |
| 2. City responds | 5 minutes |
| Other parties of City respond | Up to 3 minutes each |

Above total speaking time for Complainant and City to be the same

- | | |
|---|----------------------|
| 3. Complainant presents rebuttal | 3 minutes |
| 4. Public comment
(Excluding Complainant & City response, witnesses) | Up to 3 minutes each |
| 5. Matter is with the Task Force for discussion and deliberation | |
| 6. Vote by Task Force | |

Note: Time must be adhered to, if a speaker is interrupted by questions, the interruption does not count against his/her time.

Disability Access: The hearing room is wheelchair accessible.

Chemical-Based Products: In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals.

Cell phones, pagers and similar sound-producing electronic devices: The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decision in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact Frank Darby by mail to Administrator, Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102-4689; by phone at 415 554 7724; by fax at 415 554 7854; or by email at sotf@sfgov.org.

Citizens interested in obtaining a free copy of the Sunshine Ordinance can request a copy from Mr. Darby or by printing Chapter 67 of the San Francisco Administrative Code on the Internet, <http://www.sfgov.org/sunshine/>

Lobbyist Registration & Reporting Requirements

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance (SF Campaign & Governmental Conduct Code Sec. 2.100) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415 581-2300; fax (415 581-2317); web site: sfgov.org/ethics.

TEXT ONLY:



PRINT:



TEXT SIZE:



DOCUMENTS DEPT

JUN - 9 2008

SAN FRANCISCO
PUBLIC LIBRARY

June 13, 2007

**SUNSHINE ORDINANCE TASK FORCE
SPECIAL MEETING
MINUTES****Wednesday, June 13, 2007
5:00 p.m., City Hall, Room 406****Task Force Members**

Seat 1	Erica Craven (Vice Chair)	Seat 8	Bruce Wolfe
Seat 2	Richard Knee	Seat 9	Hanley Chan
Seat 3	Sue Cauthen	Seat 10	Nick Goldman
Seat 4	Vacant	Seat 11	Marjorie Ann Williams
Seat 5	Kristin Chu		
Seat 6	Doug Comstock (Chair)	Ex-officio	Vacant
Seat 7	David Pilpel	Ex-officio	Vacant

Call to Order The meeting called to order at 5:07 P.M.**Roll Call Present:** Craven, Knee, Comstock, Pilpel (arrived at 5:37), Wolfe, Chan, Goldman
Excused: Cauthen, Chu, Williams**Agenda Changes:** None**Deputy City Attorney:** Ernie Llorente**Administrator:** Frank Darby

1. Approval of minutes of May 8, 2007 Special Meeting.

Speakers: None

Motion to approve the minutes of May 8, 2007. (Wolfe / Goldman)

Ayes: Craven, Knee, Comstock, Wolfe, Chan, Goldman

Absent: Pilpel

Excused Absent: Cauthen, Chu, Williams

2. Report from the Chair on meeting with Supervisors to move the amendments.

Member Comstock said that he met with Rachel Redondiez, Aide to Supervisor Daly, who informed him that the deadline for submission of the proposed amendments on the November ballot and signed by 4 Supervisors is August 3. He said that without the Task Force scheduling some grueling

hours going through the amendments that he doesn't believe that the amendments will make it on the November ballot and that he doesn't want to rush.

DCA Llorente said that the Task Force also needs time to discuss the Task Force vs. Commission issue.

Vice-Chair Craven explained the importance for the deadlines and said that there isn't enough time to complete the proposed amendments.

Member Wolfe asked if the plan is to bring it to the full Board or four Supervisors; if there are choice amendments that can be pushed through now and if there is a schedule for completion of the proposed amendments.

Chair Comstock responded that the plan is to get the recommended amendments to the supervisors as required by 67.30 and move that through the hearings. If we can't get the amendments through rules, at least in a reasonable form, we can get signatures from four Supervisors; and that all of the amendments are equally important. He said that a schedule would need to be developed by the Task Force so that there is sufficient time to put the proposed amendments on the June 2008, ballot.

Vice-Chair Craven said that the Task Force doesn't want to submit the amendments in parts but as a full package. She said that Article 4 has not been reviewed by the CAC and that the Task Force needs to decide what kind of body they want to be; either a task force or a commission with certain powers, and what those changes might mean so far as implementation and enforcement.

Member Pilpel asked that the CAC prepare some pros and cons on Article 4, pertaining to the change.

Vice-Chair Craven: the discussions at the full Task Force have, in spite of the time it has taken, been extremely helpful and the amended ordinance is much better for it. We need to get a package to present to the Board, Department heads, and to the activists for their comments. We still need to move expeditiously.

Member Wolfe: could we turn the CAC meeting into full Task Force meetings?

Member Comstock: Mr. Llorente could you comment on the legal requirements to make the CAC a committee of the whole?

DCA Llorente: Other than notice requirements, the only new requirement would be to have a quorum.

Member Knee: A problem could be the 45-day rule for Orders of Determination.

Vice-Chair Craven: I think that only applies to initial hearings, and she said Article 4 will be discussed at the next CAC meeting. But there is a major decision that needs to be before the Task Force as to whether we will remain a Task Force or become a Commission or other structural body. We could have our next special meeting deal with that issue. Then the CAC can deal with the issue of the structure. That should be done in a special meeting.

Vice-Chair Craven: said that she asked DCA Llorente to provide information as to what provisions of the code weigh on the issue, in terms of the delineation of the powers that a commission has.

Member Pilpel said that he is less concerned about the composition and appointing authority and more concerned with the powers and duties.

Chair Comstock asked that we implement Member Wolfe's suggestion that the CAC develop a working timeline for completing the proposed amendments for the June 2008, ballot. He said that a proposed charter change must be submitted to the Board 120 days before the elections.

Vice-Chair Craven: The package needs to have 60 days for the public and staff of various departments to consider as well.

Speakers: Kimo Crossman urged the Task Force to not rush adoption of the proposed amendments

and that more outreach is needed to gather organizational support. That a full legislative digest needs to be done justifying the proposed changes which may take 6 months to a year to complete.

3. Possible amendments to Sections 67.7 and 67.10 to 67.17 of the Sunshine Ordinance and subsequent sections as time permits. (discussion and possible action item) (attachment)
- a. Sec 67.7 Agenda Requirement; Regular Meetings.
 - b. Sec 67.10 Closed Sessions: Permitted Topics.
 - c. Sec 67.11 Statement and Reasons for Closed Sessions.
 - d. Sec 67.12 Disclosure of Closed Session Discussions and Actions.
 - e. Sec 67.13 Barriers to Attendance Prohibited.
 - f. Sec 67.14 Tape Recording, Filming and Still Photography.
 - g. Sec 67.15 Public Testimony.
 - h. Sec 67.16 Minutes
 - i. Sec 67.17 Public Comment by Members of Policy Bodies.

Member Pilpel noted that there are still some texts that are double-underlined in §67.3 that needs to be removed. There is an item that refers to a meeting as a hearing, but can't find it right now.

Chair Comstock: Member Pilpel I believe you expressed concerns about the posting of agendas outside meeting rooms.

Member Pilpel: My problem with that is, there are often meetings of bodies outside City Hall, where agendas can't be posted because there is no facility for doing so. And the provision to apply that requirement only to meetings that take place at City Hall creates a double standard.

Vice-Chair Craven: I'm happy to apply that requirement to all meetings; I believe that limitation was put in place in response to your concerns. I'd say just make the requirement and let each entity figure out how to implement it.

Member Wolfe: so strike the language that refers to meetings at City Hall and make the requirement for all meetings.

Member Pilpel: The posting requirements in 67.12 that may conflict – "shall be posted by the close of business" if the notice is required to be posted. And outside the meeting room could be anywhere, while adjacent is language used by the Brown Act. 54955 "posting conspicuously." This section imposes an additional burden, so now agencies have to plan further ahead. I'd be ok with posting outside the room if it was "not less than 45 days before the meeting." This burden would require agencies to get to the site to post agendas when meetings often don't take place where the office is.

Vice-Chair Craven: So we will take out "posted outside the meeting room" and add a new sentence at the end: the agenda shall also be posted outside the meeting room as soon as practicable, but no later than the start of the meeting.

Public comment regarding 67.7: Kimo Crossman asked that public comment be taken at the beginning of an item, rather than the end, and he said that San Jose is going to a 10-day notice, ten days for agendas and for staff reports and urged the Task Force to go to ten days as well. 72 hours is no longer the standard. There has also been an ongoing suggestion that there be an online calendar of all city meetings, this is being done by other cities, and we are falling behind. Also any action contemplated by an agenda item should be included in the agenda description.

Member Pilpel: it is in 67.7(a) on my copy.

Kimo Crossman: it is not underlined on the copy I have, so I did not note it.

Vice-Chair Craven: With regard to a master calendar, the question is, who has access to the calendar. We have a city calendar and an events calendar. You can say – in C. "and on the city calendar."

Member Wolfe: This is a technological thing; we have the capability, very simply to post these things

online. If a committee were to post a change on their website, it would automatically change the master calendar. It is not as complex as some may think.

Vice-Chair Craven: There is a calendar of meetings and events on the website, so whoever is in charge of posting agendas and meetings on the current site, would have to have access to the master document, the question is, what we want to force the city to do.

Member Pilpel: the question is how far down we would want the postings to be required, Board of Supervisors, ok, but the all the smaller meetings, I don't think so.

Member Craven: this section only applies to policy bodies.

Member Pilpel: still it's a large number of bodies.

Chair Comstock: I had made this suggestion before, but heard no support for it at the C&A Committee, the idea I proposed would be to have a Virtual Sunshine Kiosk – I think this is the place for it 67.7. All we need is some language.

Member Craven: We already require posting of notice and agendas with the library, it's not that much extra work to also post on a central calendaring system, It would require some complexity, passwords, training and some protocol.

Member Pilpel: how about making participation in the kiosk idea voluntary, rather than required.

Member Pilpel: the language needs to include a link to the agenda.

Vice-Chair Craven: at the end of (a): and a link to the agenda on a central "master calendar" available on the City's website where the date, time and location of all city policy body meetings shall be listed.

Regarding 67.10: Kimo Crossman asked if the "master calendar" would also be used for posting notices for passive bodies. Chair Comstock responded that the language applies only to policy bodies.

Chair Comstock: there were questions and public testimony about the agenda posting at branch libraries being satisfied if there is a computer available.

Member Wolfe: "Readily accessible" should not include branches that have waiting lists for computer use.

Vice-Chair Craven: we had a lengthy discussion of this item already and decided to leave it as is.

Member Pilpel: what if the DSL or whatever is down?

Chair Comstock: in instances such as these, I believe the Library Commission could come up with their own policy as to how to deal with problems that come up.

Member Wolfe: as long as there is a commission or body that can deal with the "what if" minutia, it is ok as is. That would give flexibility as well as some problems may exist in some branches that do not in others. Member Pilpel: I want to look at subsection (i) "after the hearing" should be "meeting" and what does "go on the record" what does that mean? Is this referring to 67.16's requirement that a 150 word statement be included in the minutes?

Vice-Chair Craven: "discussion of the item" rather than "hearing on" and statements or comments received after the hearing "shall be included in the public record," rather than "go on the record." And this does not mean that it must be included in the minutes, but in the same folder or whatever.

Chair Comstock: 67.10 is next, but with regard to 67.9 there are some real concerns regarding text that need to be discussed. The specific problem some members objected to was the 48 hour requirement and the stipulation that a member of a body could request a postponement of an item if related materials were not posted for public consideration in a timely manner.

Vice-Chair Craven: that item is not agendized.

Chair Comstock asked the Administrator to scheduled \$67.9 for the next special meeting.

Chair Comstock: 67.10 Closed Sessions.

Member Pilpel: "the employee complained" of should be the employee who is the subject of the complaint.

Vice-Chair Craven: or charges. This deals with employee evaluation, so responding employee is better. If the employee who is the subject of the discussion requests a public hearing, the hearing shall be public. Delete lines 10, 11 and 12. It doesn't make sense to allow a public hearing and exclude certain people. While in a trial circumstance this is meant to prevent collusion, it doesn't work well in that situation, and I see no reason to include it here.

Member Pilpel: back to sub (a) " when a body meets to discuss security matters" they're not required to make any findings as to what constitutes a threat. I think there needs to be a process to find that there is a threat. There was a former requirement that counsel had to prepare the justification for closed session.

Vice-Chair Craven: neither the Brown Act nor the Ordinance is clear on this.

Member Pilpel: I'd like to make the law clear that a committee could not hear an item in closed session unless they have jurisdiction over the matter.

Vice-Chair Craven: the question here is, should we require more justification for closed sessions than we already do? I believe San Jose requires someone to be responsible, under penalty of perjury in the statement of justification.

Member Pilpel: posing a threat to a public building, etc insert "under their jurisdiction" or the right of public access, etc. "under their jurisdiction."

Member Pilpel: It would like to strike subsection (c) the MOU. Since the MOU doesn't exist anymore, we should strike it.

Chair Comstock: asked DCA Llorente to check the status of this MOU.

Chair Comstock: 67.11 moving on.

Member Pilpel: does the justification for closed sessions have to be made in writing or orally?

Vice-Chair Craven: it should be stated in the agenda. It should read, "the case of regular and special meetings, the statement shall be made in ~~the form of~~ the agenda disclosures.

Chair Comstock: 67.12. So why is (e) underlined? Isn't this existing language?

Vice-Chair Craven: it was moved from 67.8-1 (b). Can we have a note here in brackets that it has been moved from that location?

Member Wolfe: in (f)(3) does that refer to itself, or to the entire city?

Chair Comstock: this only applies to the closed sessions to which this section refers. This section is similar to New Jersey's proposed rules, and just as they reserve the authority to adopt procedures to deal with the situations as they come up, we will need that leeway because some details may not have been worked out.

Member Pilpel: all prior closed sessions? Does that work?

Vice-Chair Craven: it's going to be fairly cursory. It will be a new burden on policy bodies. They can go through the list and confirm that disclosure would continue to be a problem, until they come to one, such as an expected litigation that did not materialize and the statute of limitations has expired, and they could then release the file on that item. After the policy body becomes accustomed to this requirement, they will set up processes that will make the quarterly review quick and easy.

Member Pilpel: the bodies will have to go back through their entire history and review each closed

session?

Vice-Chair Craven: this is ongoing; it does not mean that they will have to go back 500 years. The words "all closed sessions" should be changed to "these closed sessions" to indicate that these are the sessions that have occurred since the adoption of this section.

Member Pilpel: so, for example, the Board held a meeting 20 years ago, and there are no existing members who were privy to those closed sessions. Are the new members authorized to disclose the contents of such a meeting?

Vice-Chair Craven: yes.

Chair Cornstock: the new members inherit all obligations, rights and privileges of former members.

Sections 67.7 through 67.12 were discussed and the Administrator recorded recommended amendments.

Adjournment

The meeting was adjourned at 7:32 p.m.

This meeting has been audio recorded and is on file in the Office of the Sunshine Ordinance Task Force.

Sunshine Ordinance Task Force



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-7724
Fax No. 554-7854
TDD/TTY No. 544-5227

<http://www.sfgov.org/sunshine/>

SUNSHINE ORDINANCE TASK FORCE

Revised – AGENDA

Tuesday, June 26, 2007

4:00 p.m., City Hall, Room 408

12:50 p.m. NSF
DOCUMENTS DEPT.

JUN 21 2007

SAN FRANCISCO
PUBLIC LIBRARY

Task Force Members

Seat 1	Erica Craven (Vice Chair)	Seat 8	Bruce Wolfe
Seat 2	Richard Knee	Seat 9	Hanley Chan
Seat 3	Sue Cauthen	Seat 10	Nick Goldman
Seat 4	Vacant	Seat 11	Marjorie Ann Williams
Seat 5	Kristin Chu		
Seat 6	Doug Comstock (Chair)	Ex-officio	Kay Gulbengay (Interim COB)
Seat 7	David Pilpel	Ex-officio	Vacant

Note: Each item on the Agenda may include minutes, department or agency letters and reports; Task Force reports; and public correspondence. These items will be available for review at City Hall, Sunshine Ordinance Task Force, Room 244.

Call to Order; Roll Call; Agenda Changes

1. Approval of minutes of May 22, 2007. (action item) (5 min) (attachment)
2. Report from Complaint Committee meeting of June 12, 2007. (Sue Cauthen) (action item) (10 min) (attachment)
 - a. 07025 Determination of jurisdiction of complaint filed by John Templeton against the Historical Preservation Fund Committee for alleged failure to provide notice of its meetings. (action item) (attachment)
 - b. 07028 & 07029 Determination of jurisdiction of complaints filed by Dan Hirsch and Kelly Saturno against the Recreation and Parks Department for alleged failure to provide notice of its meetings and failure to post the agenda of the April 19, 2007, meeting 72 hours prior to the meeting. (action item) (attachment)
 - c. 07030 Determination of jurisdiction of complaint filed by Michael Petrelis against the Department of Public Health for alleged failure to provided copies of public records requested. (action item) (attachment)
 - d. 07031 Determination of jurisdiction of complaint filed by Patrick Monette-Shaw against the Department of Public Health for alleged violation of § 67.24 and 67.34 of the Ordinance for failure to provide copies of digital audio recordings of its meetings. (action item) (attachment)

- e. 07034 & 07035 Determination of jurisdiction of complaints filed by Peter Warfield, for the Library Users Association, against the Sunshine Ordinance Task Force Administrator and the Clerk of the Board of Supervisors for alleged violation of §67.21(c) and, possibly, §67.29-7 of the Ordinance for failure to respond to a request for assistance within seven days and possibly insufficient response. (action item) (attachment)
- f. 07036 Determination of jurisdiction of complaint filed by Peter Warfield, for the Library Users Association, against the City Attorney's Office for alleged violation of § 67.25 of the Ordinance for failure to respond to an Immediate Disclosure Request in a timely manner. (action item) (attachment)
- g. 07037 Determination of jurisdiction of complaint filed by Peter Warfield, for the Library Users Association, against the City Attorney's Office for alleged violation of § 67.21(c) of the Ordinance for failure to respond to a request for assistance within seven days. (action item) (attachment)
- h. 07039 Determination of jurisdiction of complaint filed Paul Graham against the Department of Public Health for alleged failure to respond to a request or to provide requested records. (action item) (attachment)
- i. 07040 Determination of jurisdiction of complaint filed by Dr. Ahimsa Sumchai against Supervisor Sophie Maxwell for allegedly interrupting and delaying public comment. (action item) (attachment)
- j. 07041 Determination of jurisdiction of complaint filed by Ming Lee against the Department on the Status of Woman for alleged failure to respond to an Immediate Disclosure Request. (action item) (attachment)
- k. 07042 Determination of jurisdiction of complaint filed by Francisco Da Costa against Supervisor Sophie Maxwell for allegedly delaying his public comment. (action item) (attachment)
- 3. 07025 Public Hearing, complaint filed by John Templeton against the Historical Preservation Fund Committee for alleged failure to provide notice of its meetings. (action item) (attachment)
- 4. 07028 & 07029 Public Hearing, complaint filed by Dan Hirsch and Kelly Satuarno against the Recreation and Parks Department for alleged failure to provide notice of its meetings and failure to post the agenda of the April 19, 2007, meeting 72 hours prior to the meeting. (action item) (attachment)
- 5. 07030 Public Hearing, complaint filed by Michael Petrelis against the Department of Public Health for alleged failure to provided copies of public records requested. (action item) (attachment)
- 6. 07031 Public Hearing, complaint filed by Patrick Monette-Shaw against the Department of Public Health for alleged violation of § 67.24 and 67.34 of the Ordinance for failure to provide copies of digital audio recordings of its meetings. (action item) (attachment)

7. 07034 & 07035 Public Hearing, complaint filed by Peter Warfield for the Library Users Association against the Sunshine Ordinance Task Force Administrator and the Clerk of the Board of Supervisors for alleged violation of §67.21(c) and, possibly, §67.29-7 of the Ordinance for failure to respond to a request for assistance within seven days and possibly insufficient response. (action item) (attachment)
8. 07036 Public Hearing, complaint filed by Peter Warfield for the Library Users Association against the City Attorney's Office for alleged violation of § 67.25 of the Ordinance for failure to respond to an Immediate Disclosure Request in a timely manner. (action item) (attachment)
9. 07037 Public Hearing, complaint filed by Peter Warfield for the Library Users Association against the City Attorney's Office for alleged violation of § 67.21(c) of the Ordinance for failure to respond to a request for assistance within seven days. (action item) (attachment)
10. 07039 Public Hearing, complaint filed Paul Graham against the Department of Public Health for alleged failure to respond to a request or to provide requested records. (action item) (attachment)
11. 07040 Public Hearing, complaint filed by Dr. Ahimsa Sumchai against Supervisor Sophie Maxwell for allegedly interrupting and delaying public comment. (action item) (attachment)
12. 07041 Public Hearing, complaint filed by Ming Lee against the Department on the Status of Woman for alleged failure to respond to an Immediate Disclosure Request. (action item) (attachment)
13. 07042 Public Hearing, complaint filed by Francisco Da Costa against Supervisor Sophie Maxwell for allegedly delaying his public comment. (action item) (attachment)
14. Report: Compliance and Amendments Committee: meeting of June 13, 2007. (Richard Knee). (discussion and possible action) (10 min) (attachment)
15. 07009 Continued discussion: The Compliance and Amendments Committee has referred to the Task Force for further consideration their recommendation that the Mayor's Office be found in willful misconduct for failure to comply with the Sunshine Ordinance, and failure to respond to the Order of Determination issued by the full Task Force on March 27, 2007. (discussion and possible action) (15 min) (attachment)
16. Report: Ad Hoc Budget Committee: meeting of June 6, and 14, 2007. (Bruce Wolfe). (discussion and possible action) (10 min) (attachment)
17. Motion amending Section 7 of the Task Force's By Laws as follows [~~Strikethroughs~~ = deletions; Underlines = additions]:

Section 7. Action at a Meeting; Quorum and Required Vote

The presence of a majority of the members (six members) of the Task Force shall constitute a quorum for all purposes. The affirmative vote of a majority of the members of the Task Force (six votes) shall be required for the approval of all substantive matters. Procedural motions require an affirmative vote of a majority of the members present. If less than nine members are present and available to vote a complainant may request a continuance and the matter shall be continued. If a quorum is not present, no official action may be taken, except roll call and adjournment.

18. Discussion re: Poor public comment reporting in General Obligation Bond Oversight Committee minutes. (discussion and possible action) (10 min) (attachment)
19.
 - a. Report from the Special Meeting on the status of amendments to the Ordinance. (discussion and possible action) (10 min) (no attachment)
 - b. Scheduling: Special Meeting of the Task Force to consider amendments referred from the Compliance and Amendments Committee (action item) (no attachment)
20. Administrator's Report. (discussion) (5 minutes) (attachment)
21. Public comment for items not listed on the agenda. Public comment to be held at 5:00 p.m., or as soon thereafter as possible. (no action item) (12 min)
22. Announcements, questions, and future agenda items from the Task Force. (no action item) (5 min) (no attachment)

23. Adjournment

Next Meeting July 24, 2007

THE AGENDA PACKET IS AVAILABLE FOR REVIEW MONDAY THROUGH FRIDAY AT CITY HALL,
ROOM 244

SUNSHINE ORDINANCE TASK FORCE HEARING PROCEDURES

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations. Any person speaking during a public comment period may supply a brief written summary of their comments, which shall, if no more than 150 words, be included in the minutes. (Section 67.16)

Each member of the public who is unable to attend the public meeting or hearing may submit to the City, by the time the proceeding begins, written comments regarding the subject of the meeting or hearing; these comments will be made a part of the official public record. (Section 67.7-1 (c))

- | | |
|--|----------------------|
| 1. Complainant presents his/her facts and evidence | 5 minutes |
| Other parties present facts and evidence | Up to 3 minutes each |
| 2. City responds | 5 minutes |
| Other parties of City respond | Up to 3 minutes each |
| Above total speaking time for Complainant and City to be the same | |
| 3. Complainant presents rebuttal | 3 minutes |
| 4. Public comment | Up to 3 minutes each |
| (Excluding Complainant & City response, witnesses) | |
| 5. Matter is with the Task Force for discussion and deliberation | |
| 6. Vote by Task Force | |

Note: Time must be adhered to, if a speaker is interrupted by questions, the interruption does not count against his/her time.

Disability Access: The hearing room is wheelchair accessible.

Chemical-Based Products: In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals.

Cell phones, pagers and similar sound-producing electronic devices: The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decision in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact Frank Darby by mail to Administrator, Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102-4689; by phone at 415 554 7724; by fax at 415 554 7854; or by email at solf@sfgov.org.

Citizens interested in obtaining a free copy of the Sunshine Ordinance can request a copy from Mr. Darby or by printing Chapter 67 of the San Francisco Administrative Code on the Internet, <http://www.sfgov.org/sunshine/>

Lobbyist Registration & Reporting Requirements

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance (SF Campaign & Governmental Conduct Code Sec. 2.100) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415 581-2300; fax (415 581-2317); web site: sfgov.org/ethics.



TEXT ONLY:



PRINT:



TEXT SIZE:



DOCUMENTS DEPT

JUN - 9 2008

SAN FRANCISCO
PUBLIC LIBRARY

June 26, 2007

SUNSHINE ORDINANCE TASK FORCE**MINUTES****Tuesday, June 26, 2007****4:00 p.m., City Hall, Room 408****Task Force Members**

Seat 1	Erica Craven (Vice Chair)	Seat 8	Bruce Wolfe
Seat 2	Richard Knee	Seat 9	Hanley Chan
Seat 3	Sue Cauthen	Seat 10	Nick Goldman
Seat 4	Vacant	Seat 11	Marjorie Ann Williams
Seat 5	Kristin Chu		
Seat 6	Doug Comstock (Chair)	Ex-officio	Vacant
Seat 7	David Pilpel	Ex-officio	Vacant

Call to Order The meeting called to order at: 4:06 P.M.**Roll Call Present:** Craven (arrived at 4:18), Knee, Cauthen, Chu (out at 9:30), Comstock, Pilpel (arrived at 4:24), Wolfe (arrived at 4:36), Goldman, Williams (out at 10:06)**Excused:** Chan**Agenda Changes:** Items were heard in the following order: 1-3, 21, 5-6, 4, 7, 10-11, 13, 12, 14-20, 22**Deputy City Attorney:** Ernie Llorente**Administrator:** Frank Darby

Chair Comstock asked Members to be concise with their questions and comments due to the long agenda. He also informed members of the public that he was imposing a two-minute limit on public comment.

The Administrator informed the Chair that Supervisor Maxwell's office requests that items #11, and 13 be held after item #2, because the Supervisor may attend the meeting, however she also has a Board of Supervisors meeting to attend.

Katherine Higgins said that they were hoping to move the matter up on the agenda, but given the length of the Board of Supervisors meeting there is no guarantee that the Supervisor will attend.

DCA Llorente suggested that the Task Force exercise flexibility by calling her items if the Supervisor arrives.

Chair Comstock, by Task Force consensus, said that the items pertaining to Supervisor

Maxwell would be called if she arrives prior to the order that they appear on the agenda.

1. Approval of minutes of May 22, 2007.

Member Goldman informed the Task Force that he was submitting technical corrections to the minutes to the Administrator.

Chair Comstock asked DCA Llorente if has and/or can provide court cases regarding the use of the term "implied rule of reasonableness?" DCA Llorente responded that he doesn't have them, but can provide them.

Chair Comstock asked the Administrator if he had sent a copy of DTIS's posting policy to Task Force members and Mr. Crossman. The Administrator responded yes. He also asked the Administrator if the Mayor's IT person had been invited to the meeting. The Administrator responded yes and said that a copy of the letter that was sent was in the packet under the Administrators Report, and that he received no response from the Mayor's Office.

Speakers: None

Motion to approve minutes of May 22, 2007, as amended. (Knee / Goldman)

Ayes: Knee, Cauthen, Chu, Comstock, Goldman, Williams

Absent: Craven, Pilpel, Wolfe

Excused Absent: Chan

2. Report from Complaint Committee meeting of June 12, 2007.

Member Cauthen made the report

a.07025 Determination of jurisdiction of complaint filed by John Templeton against the Historical Preservation Fund Committee for alleged failure to provide notice of its meetings.

Speakers: None

Motion to accept jurisdiction. (Cauthen / Goldman)

Ayes: Knee, Cauthen, Chu, Comstock, Goldman, Williams

Absent: Craven, Pilpel, Wolfe

Excused Absent: Chan

b.07028 & 07029 Determination of jurisdiction of complaints filed by Dan Hirsch and Kelly Saturno against the Recreation and Parks Department for alleged failure to provide notice of its meetings and failure to post the agenda of the April 19, 2007, meeting 72 hours prior to the meeting.

Speakers: None

Motion to accept jurisdiction. (Cauthen / Goldman)

Ayes: Knee, Cauthen, Chu, Comstock, Goldman, Williams

Absent: Craven, Pilpel, Wolfe

Excused Absent: Chan

The Administrator informed the Task Force that the last name for Complainant Kelly Saturno was spelled incorrectly, and that the second "a" should be removed.

c.07030 Determination of jurisdiction of complaint filed by Michael Petrelis against the Department of Public Health for alleged failure to provided copies of public records requested.

Speakers: None

Motion to accept jurisdiction. (Cauthen / Goldman)

Ayes: Knee, Cauthen, Chu, Comstock, Goldman, Williams

Absent: Craven, Pilpel, Wolfe

Excused Absent: Chan

- d.07031 Determination of jurisdiction of complaint filed by Patrick Monette-Shaw against the Department of Public Health for alleged violation of § 67.24 and 67.34 of the Ordinance for failure to provide copies of digital audio recordings of its meetings.

Speakers: None

Motion to accept jurisdiction. (Cauthen / Goldman)

Ayes: Knee, Cauthen, Chu, Comstock, Goldman, Williams

Absent: Craven, Pilpel, Wolfe

Excused Absent: Chan

- e.07034 & 07035 Determination of jurisdiction of complaints filed by Peter Warfield for the Library Users Association, against the Sunshine Ordinance Task Force Administrator and the Clerk of the Board of Supervisors for alleged violation of §67.21(c) and, possibly, §67.29-7 of the Ordinance for failure to respond to a request for assistance within seven days and possibly insufficient response.

Speakers: None

Motion to accept jurisdiction. (Cauthen / Goldman)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Goldman, Williams

Absent: Pilpel, Wolfe

Excused Absent: Chan

- f.07036 Determination of jurisdiction of complaint filed by Peter Warfield for the Library Users Association, against the City Attorney's Office for alleged violation of § 67.25 of the Ordinance for failure to respond to an Immediate Disclosure Request in a timely manner.

Speakers: None

Motion to accept jurisdiction. (Cauthen / Goldman)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Goldman, Williams

Absent: Pilpel, Wolfe

Excused Absent: Chan

- g.07037 Determination of jurisdiction of complaint filed by Peter Warfield for the Library Users Association, against the City Attorney's Office for alleged violation of § 67.21(c) of the Ordinance for failure to respond to a request for assistance within seven days.

Speakers: None

Motion to accept jurisdiction. (Cauthen / Goldman)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Goldman, Williams

Absent: Pilpel, Wolfe

Excused Absent: Chan

- h.07039 Determination of jurisdiction of complaint filed Paul Graham against the Department of Public Health for alleged failure to respond to a request or to provide requested records.

Speakers: None

- Motion to accept jurisdiction. (Cauthen / Goldman)
- Ayes: Craven, Knee, Cauthen, Chu, Comstock, Goldman, Williams
- Absent: Pilpel, Wolfe
- Excused Absent: Chan
- i.07040 Determination of jurisdiction of complaint filed by Dr. Ahimsa Sumchai against Supervisor Sophie Maxwell for allegedly interrupting and delaying public comment.
- Speakers: None
- Motion to accept jurisdiction. (Cauthen / Goldman)
- Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Goldman, Williams
- Absent: Wolfe
- Excused Absent: Chan
- j.07041 Determination of jurisdiction of complaint filed by Ming Lee against the Department on the Status of Women for alleged failure to respond to an Immediate Disclosure Request.
- Speakers: None
- Motion to accept jurisdiction. (Cauthen / Goldman)
- Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Goldman, Williams
- Absent: Wolfe
- Excused Absent: Chan
- k.07042 Determination of jurisdiction of complaint filed by Francisco Da Costa against Supervisor Sophie Maxwell for allegedly delaying his public comment.
- Speakers: None
- Motion to accept jurisdiction. (Cauthen / Goldman)
- Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Goldman, Williams
- Absent: Wolfe
- Excused Absent: Chan
- Motion to limit debate on each complaint to 30 minutes, for this meeting only, and limiting individual Members debate to 5 minutes per complaint. (Goldman/Comstock)
- Speakers: Kimo Crossman said that the Task Force should consult the complainants before accepting the motion.
- Member Pilpel asked if debate could be extended if the Task Force feels that it is necessary. Chair Comstock responded yes.
- The motion was adopted, without objection.
- Chair Comstock again reminded members of the public that public comment will be limited to two minutes.
3. 07025 Public Hearing, complaint filed by John Templeton against the Historical Preservation Fund Committee for alleged failure to provide notice of its meetings.
- Speakers: John Templeton, Complainant, handed out a written statement and said that the March 24, 2007 agenda was not posted, and that since January he has only received two meeting notices. Rich Hillis, Respondent, said that the March 24, agenda was not posted until after the meeting. He said that Mr. Templeton has received notice of subsequent meetings.

Mr. Templeton, in rebuttal, said that progress was made only after the fact, however he is concerned that the process is not consistent with law and is not transparent.

Member Pilpel questioned Mr. Hillis regarding the formation of the Committee. Mr. Hillis said that the Committee was formed by the actions of the Redevelopment Agency, and was not a policy body. Member Pilpel said that he believed that the Committee is a passive meeting body.

Member Craven said that the Mayor's office is facilitating this committee which has members appointed by various entities. She asked Mr. Hillis how meetings are noticed, whether they are policy or passive meeting bodies, whether they create meeting minutes, and if there is a subcommittee that reviews the applications for funding. Mr. Hillis responded the meetings are posted on the internet, they allow public comment, but minutes are not taken. He said that there is a sub-committee to the Committee that consist of city staff and some members of the commission, which reviews the proposals and provides information to the committee.

Member Comstock asked Mr. Hillis where committee meetings are held. Mr. Hillis responded that meetings are held in City Hall.

Member Wolfe, said that the Task Force needs to determine whether the Committee is or is not a passive meeting body.

Member Williams asked Mr. Hillis if Mr. Templeton was notified of the January 17, meeting and for the ethnicity of the Committee members. Mr. Hillis said yes, that Mr. Templeton attended the meeting. He also provided the ethnicity of each of the committee members.

Mr. Pilpel asked Mr. Hillis if the meetings were conducted as a policy or passive meeting body. Mr. Hillis said that he didn't know, but that he believes they are meeting the requirements of a passive meeting body.

Chair Comstock asked Mr. Templeton if the meeting was accessible upon inquiry. Mr. Templeton said no, but that he believes that the committee is a passive meeting body.

Member Wolfe said that before a determination can be made the Task Force needs to know what kind of body the Committee is; that until then they should not move forward.

Motion to continue (Wolfe). Motion failed for lack of a second.

Motion finding a technical violation of §67.4(a) for failure to provide notice of its March 27, 2007 meeting. The department is encouraged to improve its communication with interested members of the public and to notify them of meetings upon request. Also the department is urged to make certain that the receptionist knows where the meetings are held so that individuals who inquire may be informed of the location of the meeting. (Pilpel / Williams)

Ayes: Pilpel, Williams

Noes: Craven, Knee, Cauthen, Chu, Comstock, Wolfe, Goldman

Excused Absent: Chan

Motion finding a technical violation of §67.6(e) and 67.4(a) for failure to provide notice of its March 27, 2007 meeting. The Committee is encouraged to improve its communication with interested members of the public and to notify them of meetings upon request. Also the Committee is urged to make certain that the receptionist knows where the meetings are held so that individuals who inquire may be informed of the location of the meeting. (Craven / Cauthen)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Goldman, Williams

Noes: Pilpel, Wolfe

Excused Absent: Chan

4. 07028 & 07029 Public Hearing, complaint filed by Dan Hirsch and Kelly Saturno against the Recreation and Parks Department for alleged failure to provide notice of its meetings and failure to post the agenda of the April 19, 2007, meeting 72 hours prior to the meeting.
- Speakers: Rose Dennis, Respondent, said that there was proper notice of the meeting, and that there was a sign-up sheet for the April 19, 2007 passive meeting. She said that it was not the intent of the sign up sheet to provide notice of future meetings; that in the future there will be some type of option on the sign-up sheet to allow individuals to indicate whether they want to receive notice of future meetings.
- Motion finding no violation. (Pilpel / Goldman)
- Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Wolfe, Goldman, Williams
- Excused Absent: Chan
5. 07030 Public Hearing, complaint filed by Michael Petrelis against the Department of Public Health for alleged failure to provided copies of public records requested.
- Speakers: Michael Petrelis, Complainant, said that he requested all e-mails and the calendar for Dr. Jeffrey Klausner of DPH for the month of December 2006, but his request was denied. He provided a handout of e-mails received from DPH that he alleged supports his complaint; Eileen Shields, Respondent, said that Mr. Petrelis' request for Dr. Klausner's e-mail was overly broad, and that Dr. Klausner's calendar is not subject to disclosure under the Ordinance.
- Mr. Petrelis, in rebuttal, said that documents created by City employees are public record.
- Kimo Crossman said that departments should make calendars available and request for them should not have to go through the complaint process.
- Allen Grossman said that CPRA defines what a public record is and the department should provide it.
- Patrick Monette-Shaw said that even if the department is not required to produce it, it is still a public document; that there is no reason for not making it available.
- Motion to continue (Pilpel). Motion failed for lack of a second.
- Motion finding a violation of §67.21 of the Sunshine Ordinance for failure to produce records. The Department is required to provide a response within 5 days of the receipt of this Order of Determination and to produce the records as soon as practicable. (Craven / Wolfe)
- Ayes: Craven, Knee, Cauthen, Chu, Comstock, Wolfe, Goldman, Williams
- Noes: Pilpel
- Excused Absent: Chan
6. 07031 Public Hearing, complaint filed by Patrick Monette-Shaw against the Department of Public Health for alleged violation of § 67.24 and 67.34 of the Ordinance for failure to provide copies of digital audio recordings of its meetings.
- Speakers: Patrick Monette-Shaw, Complainant; said that he requested a digital audio recording for three Transition Steering Committee meetings, but did not receive them. He said that he also did not receive a copy of the transcript. Robert Thomas, Respondent, said that the draft report and minutes were provided in hardcopy. He said that he could not provide that tapes because they had been recorded over, and that the digital audio recording was erased as a result of a problem that occurred on the drive of the local computer that it was stored on.
- Mr. Shaw, in rebuttal, said that a failure to maintain records in accordance with the retention schedule is a violation.
- Kimo Crossman, said that the alteration and destruction of a public record is a misdemeanor

offense. He doesn't believe that the digital recorder was accidentally erased since it requires that you push a button to delete.

Motion to continue the discussion. (Pilpel / Williams). Without objection.

Motion to continue to the next meeting. (Williams / Knee)

Ayes: Knee, Wolfe, Williams

Noes: Craven, Cauthen, Chu, Comstock, Pilpel, Goldman

Excused Absent: Chan

Motion finding a violation of §67.21 of the Sunshine Ordinance for failure to provide records. The department is instructed to provide the audio files, to the extent that they have them within 5 days after receipt of this Order of Determination, and/or explain to the complainant and to the Task Force why the Department cannot provide the audio files as requested. (Pilpel / Wolfe)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Wolfe, Goldman, Williams

Excused Absent: Chan

7. 07034 & 07035 Public Hearing, complaint filed by Peter Warfield for the Library Users Association against the Sunshine Ordinance Task Force Administrator and the Clerk of the Board of Supervisors for alleged violation of §67.21(c) and, possibly, §67.29-7 of the Ordinance for failure to respond to a request for assistance within seven days and possibly insufficient response.

Member Pilpel recommended that item #'s 7, 8, and 9 be referred back to the Complaint Committee because it is not clear what the complaint is and since Mr. Warfield was not present. Member Craven agreed.

The Administrator reported that although Mr. Warfield was not present at the Complaint Committee hearing he had received a written correspondence from Mr. Warfield asking that his complaints be heard. The Administrator asked that the matter be considered by the Task Force.

Member Cauthen said that if the matter went back to the Complaint Committee, that she is not certain what they could do differently.

Member Craven said that since Mr. Warfield urged the Complaint Committee to move forward with his complaints in his absence that she is withdrawing her agreement to refer the matter back to the Complaint Committee.

DCA Llorente said that if the Task Force decided to hear the case they must do so based on the information that they have.

Speakers: Frank Darby, Administrator, said that regarding item #7 that he does not agree to a continuance and asked that the matter be heard. DCA Matt Dorsey, in regards to #'s 8 and 9, asked that the Task Force move forward with this complaint because he plans to stipulate, in the interest of brevity, to the issue of timeliness for both complaints. He said that the City Attorney's Office (CAO) did not respond timely. He asked that the record reflect that he apologizes for the late response, and that Mr. Warfield could let the CAO know why he feels that his request is incomplete.

Motion to refer back to the Complaint Committee (Pilpel). Motion failed for lack of a second.

Member Wolfe, reminded the members that jurisdiction had already been accepted on the items.

Motion to continue item #7, 8, and 9. (Pilpel / Williams)

Ayes: Craven, Comstock, Pilpel, Goldman, Williams

Noes: Knee, Cauthen, Chu, Wolfe

Excused Absent: Chan

8. 07036 Public Hearing, complaint filed by Peter Warfield for the Library Users Association against the City Attorney's Office for alleged violation of § 67.25 of the Ordinance for failure to respond to an Immediate Disclosure Request in a timely manner.

Previously continued.

9. 07037 Public Hearing, complaint filed by Peter Warfield for the Library Users Association against the City Attorney's Office for alleged violation of § 67.21(c) of the Ordinance for failure to respond to a request for assistance within seven days.

Previously continued.

10. 07039 Public Hearing, complaint filed Paul Graham against the Department of Public Health for alleged failure to respond to a request or to provide requested records.

Member Cauthen said that she knows Mr. Rivard, has worked with him on health issues, but can be fair and impartial.

Speakers: Paul Graham, Complainant, said that he requested from Dr. Rajiv Bhatia, information regarding instructions, guidelines, policies used by field inspectors who are inspecting noise complaints, however he did not receive a response until he filed the complaint. He said that Mr. Rivard has been very cooperative. Tom Rivard, Respondent, said that Mr. Graham requested records that don't exist, and that they did not respond to his request until after the complaint was filed, to let him know that they did not have records responsive to his request.

Mr. Graham, in rebuttal, said that he was never notified that the records did not exist. He said that he was glad that Mr. Rivard "is in the loop," but is disturbed that others in the department did not respond to his request by informing him that they didn't have the documents.

Dr. Ahimsha Sumchai, said there is a pattern by DPH that impedes and obstructs the public from getting requested information. She said that the increased complaints against DPH indicates that something more needs to be done.

Motion finding a violation of §67.21 of the Sunshine Ordinance for failure to respond to the April 24, 2007 request. A written response must be provided, to the extent it has not already been provided, within 5 days after receipt of this Order of Determination. (Pilpel / Goldman)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Wolfe, Goldman, Williams

Excused Absent: Chan

11. 07040 Public Hearing, complaint filed by Dr. Ahimsa Sumchai against Supervisor Sophie Maxwell for allegedly interrupting and delaying public comment.

Speakers: Dr. Ahimsa Sumchai, Complainant, said that Supervisor Sophie Maxwell on numerous occasions violated §67.15 of the Ordinance by interrupting the public during their public comment, not allowing the public to speak on opposing matters, and delayed her public comment. She said that she has a video presentation that shows the violations.

The Task Force took a brief recess to allow time to set up the video presentation.

Chair Comstock asked to be recused from items #11 and 12 due to a financial interest with one of Supervisor Maxwell's opponents.

Motion to recuse Chair Comstock. (Pilpel/Knee) Without objection.

Member Pilpel disclosed that he and Member Wolfe served as a volunteer at the Sierra Club with Dr. Sumchai, but don't believe that it will prejudice his views.

Member Willimans, disclosed that she is as personal friend with Mr. Da Costa, and know Dr.

Sumchai and Espinola Jackson, but can be fair and impartial.

Member Wolfe disclosed that he knows Mr. Ofen.

Dr. Sumchai provide a video presentation of the April 16, 2007 Land Use Committee, which she said shows several violations. Dr. Sumchai also said that, Supervisor Maxwell, during the May 7, 2007 meeting interrupted the entire public comment period to allow a departmental representative to speak to statements that were made but did not allow a rebuttal.

Speakers in support of the complainant: Espinola Jackson said those who came later were able to speak before her. Francisco Da Costa said that he told the clerk that he wanted to speak earlier during public comment. He said that coming to the Task Force to get adjudication is difficult and that he is fed up with being denied public comment. Brian O'Flynn said that the interruption was intended to suppress public comment and that the Supervisor cut short his comments, which is a violation of §67.15. Joe Cassidy said that Supervisor McGoldrick and Maxwell are mocking the public and suppressing public comment.

Katherine Higgins, Respondent, said that there has been no action by the Supervisor to oppose differing public opinions. She said that there was no intention to delay Dr. Sumchai's public comment; she described the committee clerks process for collection speaker cards. She also said that the matter before the Land Use Committee on April 16, 2007 pertained to the endorsement of a matter, but that Mr. Ofen toward the end of his public testimony begin talking about a lawsuit. Ms. Higgins said that during the May 7, 2007 meeting members of the public were not interrupted during public comment, and that public comment continued after the department responded to questions from members of the committee.

Dr. Sumchai, in rebuttal, said that there was information that Supervisor Maxwell did not want aired, and that the Supervisor, because of past conflicts, delayed her public comment. She said that the City contributes to a "conspiracy of silence" toward the public during public comment.

Public Comment: Kimo Crossman, said that there is nothing to allow restrictions on public comment content. He said that the Task Force can advise the BOS on public comment. He urged the Task Force to continue the matter so that the Supervisor can attend.

Anora Dunn said that the Supervisor should have attended. She said that there are symptoms of unknown origin that are affecting people in the community. She said that Supervisor Maxwell has an obligation to attend the community meetings or to send a representative.

Allen Grossman said that Ms. Higgins testimony is of no value if she did not attend the meetings in which the incidents occurred. He said that the Task Force is on par, if not at a higher level, with the Board of Supervisors and that the Supervisor has "very little choice" with regards to appearing before the Task Force when asked.

Motion finding a violation of §67.15 (c) and (d) of the Sunshine Ordinance for interrupting Mr. Brian O'Flynn's public comment during the April 16, 2007 Land Use Committee meeting, by not allowing him to speak on a matter related to the item and reducing his time. The Task Force is concerned about allegations presented to the Task Force that speakers have been called out of order during public comment, and has concerns about fairness in the application of the public testimony rules. We believe that it is important for the Board of Supervisors to better demonstrate to the public that speaker cards that are turned in will be handled appropriately. The Task Force urges Supervisor Maxwell to adopt clear policies and regulations to provide for a transparent and orderly administration of public comment. (Cauthen / Goldman)

Ayes: Craven, Knee, Cauthen, Pilpel, Wolfe, Goldman, Williams

Noes: Chu

Recused: Comstock

Excused Absent: Chan

12. 07041

Public Hearing, complaint filed by Ming Lee against the Department on the Status of Women (DOSW) for alleged failure to respond to an Immediate Disclosure Request.

Speakers: Ming Lee, Complainant, said that she submitted a request to DOSW for the job classification of Dr. Emily Murase and for her collective bargaining agreement, but did not get a response. She said that she was asked why she wanted the records. Ms Lee referred to an e-mail on page 288 of the packet, and said that she doesn't recall receiving it and wanted a continuance so that she can see if she has it. She also said that she wanted to know the protocol if a promise is made to provide records but the department does not comply with the Task Force's instructions. Dr. Emily Murase, Respondent, said that Ms. Lee sent the request to Ms. Cynthia Vasquez, so she was not aware of the request. Dr. Murase said that she responded as she received the request. She said that she attempted to meet with Ms. Lee, alone with the Deputy City Attorney (DCA) at a neutral place, but Ms. Lee did not appear for the meeting.

Ms. Lee, in rebuttal, said that there was no point meeting because she was told that the DCA would not be present. She said that Dr. Murase's statements are misleading.

Member Craven informed Dr. Murase that requesters are not required to provide a reason for making a request. Dr. Murase said that she is aware of that, and has informed her staff.

Member Pilpel said that he believes that there are some communications issues, and that there is a need to find a way to help resolve the matter with Ms. Lee. Dr. Murase suggested that Ms. Lee consult with Ms. Beverly Upton, Executive Director of the Domestic Violence Consortium, for mediation of her issues.

Motion finding no violation. (Pilpel / Goldman)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Goldman

Noes: Wolfe, Williams

Excused Absent: Chan

13. 07042

Public Hearing, complaint filed by Francisco Da Costa against Supervisor Sophie Maxwell for allegedly delaying his public comment.

Speakers: Francisco Da Costa, Complainant, said that he arrived 15 minutes earlier to the meeting, filled out the speaker card, and gave it to the committee clerk. He said that as a result of special markings that he placed on his speaker card that he saw the Supervisor move his card to the back of the stack of speaker cards.

Speakers in support of the complainant: Espinola Jackson said that she arrives early so that she can speak and leave early, but her name is called after others although she is one of the first to arrive. Joe Cassidy said that the Supervisor is shuffling the deck of speaker cards, and that there is a concerted effort to muzzle everyone. Dr. Ahimsha Sumchi said that the pattern of behavior has already been identified as a problem by the Task Force.

Katherine Higgins, Respondent, said that she has already provided the clerks' procedures in her written response, and said that there was no intent to delay public comment.

Mr. Da Costa, in rebuttal, said that the Supervisor should be present and there is no time to waste without getting a fair adjudication. He said that public officials are accountable to the public, and that he doesn't want a representative who doesn't know anything about the matter.

Public Comment: Kimo Crossman, recommended that a letter be written to the Supervisor, and that the Task Force agendize a discussion regarding appropriate public comment and that the Board of Supervisors be invited to attend. He said that the Supervisor should be present and that the City Attorney should not have instructed the Supervisor not to attend.

Anora Dunn, said that Supervisor Maxwell must respect the fact that the people elected her.

Motion finding no violation, but recommend that a letter be sent suggesting ways that speaker cards can be handled or to invite further discussion on the topic of speaker cards and the handling of public comment. (Pilpel) Motion failed for lack of a second.

Motion to take no action, but that a letter be written expressing concerns about allegations presented to the Task Force that speakers have been called out of order during public comment, and has concerns about fairness in the application of the public testimony rules. We believe that it is important for the Board of Supervisors to better demonstrate to the public that speaker cards that are turned in will be handled appropriately. The Task Force urges Supervisor Maxwell to adopt clear policies and regulations to provide for a transparent and orderly administration of public comment. (Craven / Knee)

Ayes: Craven, Knee, Cauthen, Chu, Pilpel, Wolfe, Goldman, Williams

Recused: Comstock

Excused Absent: Chan

14.

Report: Compliance and Amendments Committee: meeting of June 13, 2007.

Member Knee made the report.

Speakers: None

15. 07009

Continued discussion: The Compliance and Amendments Committee has referred to the Task Force for further consideration their recommendation that the Mayor's Office be found in willful misconduct for failure to comply with the Sunshine Ordinance, and failure to respond to the Order of Determination issued by the full Task Force on March 27, 2007.

Chair Comstock asked the Administrator if the Mayor's Office had responded to the June 11, 2007 letter. The Administrator informed the Task Force that he did not receive a response.

Speakers: Kimo Crossman said that the referral should identify who the violation is against and cite willful failure and official misconduct for failure to file the Sunshine Ordinance. He said that the Attorney General will not investigate because Jerry Brown got in trouble for destroying records, and that the DA won't do it because it is a political issue. He said that only the Ethics Commission can do some form of investigation.

Allen Grossman said that the California Criminal Code says that official misconduct is a misdemeanor, and that the DA could easily find that there is a violation.

Member Pilpel asked that the question regarding who the matter is referred to be divided. Chair Comstock, ruled that the question will be divided.

Motion to appeal the ruling of the Chair. (Wolfe / Comstock)

Ayes: Wolfe

Noes: Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Goldman, Williams

Absent: Chu

Excused Absent: Chan

Motion to refer to the Board of Supervisors for further consideration. (Knee / Cauthen)

Ayes: Craven, Knee, Cauthen, Comstock, Pilpel, Wolfe, Goldman

Noes: Williams

Absent: Chu

Excused Absent: Chan

Member Craven said that although she believes that the Mayor's Office made a mistake when they deleted the records, that the reason for her vote is because the failure of the Mayor's Office to appear before the Task Force for the past two months to explain how e-mails are kept and retrieved shows a level of disrespect and disregard for the issue.

Motion to refer to the District Attorney and Attorney General for further consideration. (Knee / Cauthen)

Ayes: Craven, Knee, Cauthen, Wolfe, Goldman, Williams

Noes: Comstock, Pilpel

Absent: Chu

Excused Absent: Chan

Member Williams said that she wanted to change her vote on the prior motion because she thought that the motion was to refer the matter to the Board of Supervisors only.

Motion to refer to the Ethics Commission for further consideration. (Wolfe / Goldman)

Ayes: Craven, Knee, Cauthen, Wolfe, Goldman, Williams

Noes: Comstock, Pilpel

Absent: Chu

Excused Absent: Chan

Chair Comstock asked members to contribute to what that referral should say, and clear on the laws that have been violated.

16.

Report: Ad Hoc Budget Committee: meeting of June 6, and 14, 2007.

Member Wolfe made the report.

He indicated that the Interim Clerk of the Board attended the meeting and as such they will end up with a 1.85 FTE, at the classification of a Executive Secretary, and they will have the authority to deal with the public and carry out most of the duties preformed by the Administrator.

The Administrator reported that the Board of Supervisors, at the June 25, 2007, Budget and Finance Committee approved the recommendation without objection.

Member Pilpel asked if the Task Force to agendize a discussion regarding the mission and goals of the committee. Without objection.

Speakers: Kimo Crossman said that hopefully the SOTF office will be open during business hours and that the Task Force will address the appropriate duties should be.

17.

Motion amending Section 7 of the Task Force's By Laws as follows [Strikethroughs = deletions; Underlines = additions]:

Section 7. Action at a Meeting; Quorum and Required Vote

The presence of a majority of the members (six members) of the Task Force shall constitute a quorum for all purposes. The affirmative vote of a majority of the members of the Task Force (six votes) shall be required for the approval of all substantive matters. Procedural motions require an affirmative vote of a majority of the members present. If less than nine members are present and available to vote a complainant may request a continuance and the matter shall be continued. If a quorum is not present, no official action may be taken, except roll call and adjournment.

Speakers: Allen Grossman referred to members to the letter that he submitted in the packet and said that a private party does not have the resources to research this matter. He said that

there is a question as to whether a member of the Task Force can participate in a meeting via teleconferencing; that the Task Force's By Laws say no, but that the section that Mr. Owen provided says yes.

Member Craven thanked Mr. Grossman for his letter.

Kimo Crossman, said that the Task Force could have given Mr. Grossman more time since he put 40 hours preparing the memorandum.

Member Pilpel, thanked Mr. Grossman for his letter. He said that he does not support the proposed change because the Task Force should determine whether to grant or deny a continuance.

Member Knee thanked Mr. Grossman for his letter. He said that the Task Force is not equal to the Board of Supervisors because, 1) the Board appoints members to the Task Force, 2) the Task Force has no subpoena power and 3) the Task Force has no authority to discipline or penalize. He asked Mr. Grossman about his thoughts on the matter.

Mr. Grossman said that the Task Force has power to make their own rules that cannot be restricted or limited by the BOS and can have their own quorum requirements. He said that he doesn't know how Prop B relates to this. He said that the Task Force has a lot of power.

Member Wolfe, asked whether the Task Force's determinations are consistent with a legal opinion that is written when there is no law that specifically addresses a matter; that this may be where the power of the Task Force lies.

Allen Grossman, said that the determinations of the Task Force have legal consequences because the Task Force has the expertise regarding public meetings and laws.

Member Pilpel said that although the provision of the Ordinance only supersedes other local laws that may be in conflict, the Charter is held at a higher level than Ordinances.

Chair Comstock said that the SOTF is the last place for people to turn to when they are not being heard. It is important that they feel that they are treated fairly by the Task Force and that they can get sufficient votes. He said that this will help the public have more confidence in the Task Force.

Member Craven, said that not all members of the Task Force have their minds made up prior to the meeting, and that trying to count votes in advance is not a good idea. She said that members do make an effort to attend every meeting, which should be the standard, rather than allow individuals to get a continuance because they don't believe that they will have enough votes to win.

Motion to continue to the next Task Force meeting. (Cauthen) Motion failed for lack of a second.

Motion to approve the proposed amendment to the Sunshine Ordinance Task Forces By Laws. (Comstock / Wolfe)

Ayes: Comstock, Wolfe, Goldman

Noes: Craven, Knee, Cauthen, Pilpel

Absent: Chu, Williams

Excused Absent: Chan

18.

Discussion re: Poor public comment reporting in General Obligation Bond Oversight Committee (GOBOC) minutes.

Member Cauthen said that she noticed that the minutes for the GOBOC are not in accordance with the Ordinance. She suggested that the Task Force write them a letter referring them to 67.16 of the Ordinance. Without objection.

Speakers: Kimo Crossman agreed with the recommendation and said that he already sent them a letter.

Member Pilpel said that Emerick Common informed him that he feels that he is often mistreated in the GOBOC minutes.

Chair Comstock asked Member Cauthen to assist him with writing the letter. Member Cauthen said that if the Chair draft the letter that she would edit it.

19. a. Report from the Special Meeting on the status of amendments to the Ordinance.

Chair Comstock said that the February primary is anticipated to be a high voter turnout and would be a great opportunity to present the proposed amendments. However, everything must be wrapped up by November, which requires that they have more special meetings since complaints are taking up their regular meeting time.

Member Wolfe suggested a special weekend retreat.

Member Cauthen, suggested that time limits be place on members with regards to the amendments.

Member Wolfe, said he rather not expedite the process.

Member Craven, said that if members look through the Ordinance prior to the meeting and come prepared to convey their thoughts it would help keep things moving.

Chair Comstock, said that he can appoint Members Wolfe and Pilpel to the Compliance and Amendments Committee.

Member Pilpel suggested that the Task Force not specify a completion date but rather to move through the proposed amendments, then once done determine which election to have it put before the voters. He said that in some instances he does not have solutions to proposed Ordinance amendments prior to the meeting so he hold his thoughts until he hears ideas from other members.

Member Cauthen suggested that the Task Force move forward, while the current Board is still seated.

Member Pilpel suggested that the Task Force complete proposed amendments to Article II at the next special meeting.

Chair Comstock, appointed Members Wolfe and Pilpel to the Compliance and Amendments Committee. Without objection.

Speakers: None.

b. Scheduling: Special Meeting of the Task Force to consider amendments referred from the Compliance and Amendments Committee

Speakers: None

By consensus, the Task Force scheduled its next special meeting for Friday, July 13, 2007 at 4 – 6 PM.

20. Administrator's Report.

The Administrator made the report.

Chair Comstock asked the Administrator why he summarizes the testimony of the public but not the members of the Task Force. The Administrator responded that members of the public have a time limit, but the Task Force has continuing dialog. He said that he does not have the time to do verbatim minutes, and that it takes 2.5 to 3 hours to complete minutes 1 hour of a meeting; that doing so would require that he shut down the office. The Administrator said that he will make certain that the actions of the Task Force are captured, and other detail if time

permits. He thanked the Chair for amending the minutes to add the additional discussion on each item.

The Chair indicated that he will only be able to listen to the tapes once more to add the additional discussion into the minutes, he asked other members to volunteer to assist with this task.

Speakers: None.

21. Public comment for items not listed on the agenda. Public comment to be held at 5:00 p.m., or as soon thereafter as possible.

Speakers: Kimo Crossman said that Mr. Warfield indicated to him that he wants all of his items continued; that he sent an e-mail to the Administrator asking that they be continued.

Chair Comstock asked the Administrator if he received a request for a continuance from Mr. Warfield. The Administrator responded that the e-mail request from Mr. Warfield asked that the Task Force not move forward with his complaints and that to clarify Mr. Warfield's statement the Administrator asked him if he was withdrawing his complaint, but has not received a response. He said that neither he nor the City Attorney's office was agreeable to a continuance.

Kimo Crossman, said that Mr. Warfield is entitled to one automatic continuance. He said that there is no such thing as a "technical" violation, and asked that the term not be used. He said that the Administrator knows that Mr. Warfield has limited e-mail access is trying to cause problems for Mr. Warfield.

The Administrator informed the chair that the e-mail that he sent to Mr. Warfield was in response to the e-mail that was sent by Mr. Warfield.

Dr. Ahimsa Sumchai expressed concerns that she feels fall within the jurisdiction of the Task Force that are arising out of the efforts by Supervisor Michela Alioto-Pier to sponsor legislation that will enact codes of conduct for members of the Board of Supervisors. She said that although there are legal definitions for defamation of character and libel, that under the Ordinance a policy body must not abridge or prohibit public criticism of policies, procedures and programs of the City; that in the process of developing legislation the Task Force must take a stand to ensure that there is no abridgement of the Sunshine Ordinance.

Member Cauthen suggested to Dr. Sumchai that she notify the author of the motion and other Board Members who are causing the violation.

Member Pilpel asked that communication can be sent to the Board of Supervisors asking that the legislation, when its available, be referred to the Task Force for review and comment.

Member Williams said that she is uncomfortable with the ruling on the complaint by Mr. Templeton, specifically with regards to the use of the word "technical" to describe the violation.

22. Announcements, questions, and future agenda items from the Task Force.

Speakers: None

Member Pilpel said that he hopes to have a draft of the Annual Report to the Task Force by the next meeting. With regards to the Community College District he said that S7 Resolution would not be voted on, on Thursday. He said that he agreed to redraft the SO in a way that works for the institution by August 1.

Adjournment The meeting was adjourned at 10:55 p.m.

This meeting has been audio recorded and is on file in the Office of the Sunshine Ordinance Task

Force.

Sunshine Ordinance Task Force



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-7724
Fax No. 554-7854
TDD/TTY No. 544-5227

<http://www.sfgov.org/sunshine/>

**SUNSHINE ORDINANCE TASK FORCE
AGENDA**

Tuesday, July 24, 2007

4:00 p.m., City Hall, Room 408

DOCUMENTS DEPT.

JUL 20 2007

SAN FRANCISCO
PUBLIC LIBRARY

Task Force Members

Seat 1	Erica Craven (Vice Chair)	Seat 8	Bruce Wolfe
Seat 2	Richard Knee	Seat 9	Hanley Chan
Seat 3	Sue Cauthen	Seat 10	Nick Goldman
Seat 4	Vacant	Seat 11	Marjorie Ann Williams
Seat 5	Kristin Chu		
Seat 6	Doug Comstock (Chair)	Ex-officio	Angela Calvillo
Seat 7	David Pilsel	Ex-officio	Vacant

Note: Each item on the Agenda may include minutes, department or agency letters and reports; Task Force reports; and public correspondence. These items will be available for review at City Hall, Sunshine Ordinance Task Force, Room 244.

Call to Order

Roll Call

Agenda Changes

1. a. Approval of minutes of June 26, 2007. (action item) (5 min) (attachment)
- b. Approval of minutes of June 13, 2007, Special Meeting. (action item) (5 min) (attachment)
2. Report from Complaint Committee meeting of July 10, 2007. (Sue Cauthen) (action item) (10 min) (attachment)
- 07045 Determination of jurisdiction of complaint filed by Patrick Monette-Shaw against the San Francisco Health Commission for violation of Sunshine Ordinance §§67.7(a) and (b), and 67.34 for alleged failure to provide adequate public notice of its May 15, 2007, agenda. (action item) (attachment)
3. 07045 Public Hearing, complaint filed by Patrick Monette-Shaw against the San Francisco Health Commission for violation of Sunshine Ordinance §§67.7(a) and (b), and 67.34 for alleged failure to provide adequate public notice of its May 15, 2007, agenda. (action item) (30 min) (attachment)
4. Report: Compliance and Amendments Committee: meeting of July 11, 2007. (Richard Knee). (discussion and possible action) (10 min) (attachment)

5. 07030 The Compliance and Amendments Committee has referred to the Task Force for further consideration their recommendation that the Department of Public Health be found in willful failure and official misconduct for failure to comply with the Sunshine Ordinance, and failure to comply with the Order of Determination issued by the Task Force on June 26, 2007, by not producing the e-mails of Dr. Jeffrey Klausner for the month of December 2006, and that referral, based on that finding, to the Ethics Commission and to another appropriate body be considered. (discussion and possible action) (15 min) (attachment)
6. Possible amendments to Sections 67.9, and 67.12 to 67.18 of the Sunshine Ordinance and subsequent sections as time permits. (discussion and possible action item) (attachment)
- (a.)Sec 67.9 Agendas and Related Materials: Public Records.
 - (b.)Sec 67.12 Disclosure of Closed Session Discussions and Actions.
 - (c.)Sec 67.13 Barriers to Attendance Prohibited.
 - (d.)Sec 67.14 Tape Recording, Filming and Still Photography.
 - (e.)Sec 67.15 Public Testimony.
 - (f.) Sec 67.16 Minutes
 - (g.)Sec 67.17 Public Comment by Members of Policy Bodies.
 - (h.)Sec 67.18 Supervisor of Public Forum (new proposed section)
7. Discussion regarding the Budget Committee's proposed mission/goals:
- The Committee shall provide input to the Sunshine Ordinance Task Force regarding its budget.
 - The Committee will assess the needs of the Task Force and its related efforts to implement and enforce the San Francisco Sunshine Ordinance.
 - The Committee will advocate for full funding for the Task Force and evaluate and estimate the needs of the Task Force to operate at optimal performance level.
8. Administrator's Report. (discussion) (5 minutes) (attachment)
9. Public comment for items not listed on the agenda. Public comment to be held at 5:00 p.m., or as soon thereafter as possible. (no action item) (12 min)
10. Announcements, questions, and future agenda items from the Task Force. (no action item) (5 min) (no attachment)

Adjournment

Next Meeting August 28, 2007

July 24 2007

TO: Sunshine Ordinance Task Force
FM: Sue Cauthen for the Complaint Committee
RE: Information for Orders of Determination

We are providing a list of relevant SO code sections only. Any records the TF orders produced should be provided in 5 days.

NB: Due to time constraints, this document was written before issuance of the city attorney's informational letter.

KEY: CAO: City Attorney's Office; COB: Clerk of Board of Supervisors; CPRA: California Public Records Act; IDR: Immediate Disclosure Request; SO: Sunshine Ordinance; TF: Task Force; 12L: Section 12L of the Administrative Code

I. (07045) PATRICK MONETTE-SHAW v. HEALTH COMMISSION

SO: 67.7 (agenda requirements); 67.34 (willful misconduct)

SUNSHINE ORDINANCE TASK FORCE HEARING PROCEDURES

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations. Any person speaking during a public comment period may supply a brief written summary of their comments, which shall, if no more than 150 words, be included in the minutes. (Section 67.16)

Each member of the public who is unable to attend the public meeting or hearing may submit to the City, by the time the proceeding begins, written comments regarding the subject of the meeting or hearing; these comments will be made a part of the official public record. (Section 67.7-1 (c))

- | | | |
|----|---|----------------------|
| 1. | Complainant presents his/her facts and evidence | 5 minutes |
| | Other parties present facts and evidence | Up to 3 minutes each |
| 2. | City responds | 5 minutes |
| | Other parties of City respond | Up to 3 minutes each |

Above total speaking time for Complainant and City to be the same

- | | | |
|----|--|----------------------|
| 3. | Complainant presents rebuttal | 3 minutes |
| 4. | Public comment
(Excluding Complainant & City response, witnesses) | Up to 3 minutes each |
| 5. | Matter is with the Task Force for discussion and deliberation | |
| 6. | Vote by Task Force | |

Note: Time must be adhered to, if a speaker is interrupted by questions, the interruption does not count against his/her time.

Disability Access: The hearing room is wheelchair accessible.

Chemical-Based Products: In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals.

Cell phones, pagers and similar sound-producing electronic devices: The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decision in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact Frank Darby by mail to Administrator, Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102-4689; by phone at 415 554 7724; by fax at 415 554 7854; or by email at sotf@sfgov.org.

Citizens interested in obtaining a free copy of the Sunshine Ordinance can request a copy from Mr. Darby or by printing Chapter 67 of the San Francisco Administrative Code on the Internet, <http://www.sfgov.org/sunshine/>

Lobbyist Registration & Reporting Requirements

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance (SF Campaign & Governmental Conduct Code Sec. 2.100) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415 581-2300; fax (415 581-2317); web site: sfgov.org/ethics.

TEXT ONLY:



PRINT:



TEXT SIZE:



DOCUMENTS DEPT.

JUN - 9 2008

SAN FRANCISCO
PUBLIC LIBRARY

July 24, 2007

**SUNSHINE ORDINANCE TASK FORCE
MINUTES****Tuesday, July 24, 2007
4:00 p.m., City Hall, Room 408****Task Force Members**

Seat 1	Erica Craven (Vice Chair)	Seat 8	Bruce Wolfe
Seat 2	Richard Knee	Seat 9	Hanley Chan
Seat 3	Sue Cauthen	Seat 10	Nick Goldman
Seat 4	Vacant	Seat 11	Marjorie Ann Williams
Seat 5	Kristin Chu		
Seat 6	Doug Comstock (Chair)	Ex-officio	Angela Calvillo
Seat 7	David Pilpel	Ex-officio	Vacant

Call to Order The meeting called to order at: 4:03 P.M.**Roll Call Present:** Craven, Knee, Cauthen (out at 6:35), Chu, Comstock, Wolfe (arrived at 5:17), Goldman, Chan (arrived at 4:20)**Absent:** Pilpel**Excused:** Williams**Agenda Changes:** Item #9 was heard after item #5**Deputy City Attorney:** Ernie Llorente**Administrator:** Frank Darby

Chair Comstock, by Task Force consensus, asked to continue item #1.b. until he has time to review the tapes of the meeting.

1. a. Approval of minutes of June 26, 2007.

Speakers: Peter Warfield said that the Administrators statement on page 8 of the minutes is not correct because he asked that the Task Force not move forward with hearing his complaints. Administrator Darby responded that the minutes are accurate and that the statement was made in reference to the Complaint Committee meeting and not the full Task Force meeting.

Motion to approve minutes of June 26, 2007, as amended. (Craven / Knee)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Goldman

Absent: Pilpel, Wolfe, Chan

Excused Absent: Williams

- b. Approval of minutes of June 13, 2007, Special Meeting.

Continued to the call of the Chair.

Report from Complaint Committee meeting of July 10, 2007.

Chair Cauthen made the report.

2. 07045 Determination of jurisdiction of complaint filed by Patrick Monette-Shaw against the San Francisco Health Commission for violation of Sunshine Ordinance §§67.7(a) and (b), and 67.34 for alleged failure to provide adequate public notice of its May 15, 2007, agenda.

Speakers: Patrick Monette-Shaw, Complainant, urged the Task Force to hear the complaint that was filed by Michael Petrelis at its next meeting.

Motion to accept jurisdiction. (Cauthen / Goldman)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Chan Goldman, Williams

Absent: Pilpel, Wolfe

Excused Absent: Williams

3. 07045 Public Hearing, complaint filed by Patrick Monette-Shaw against the San Francisco Health Commission (SFHC) for violation of Sunshine Ordinance §§67.7(a) and (b), and 67.34 for alleged failure to provide adequate public notice of its May 15, 2007, agenda.

Speakers: Patrick Monette-Shaw, Complainant, said that the responsible parties named in his complaint are not present. He said that the agenda of the SFHC was so vague as to be meaningless, intentionally evading the requirement for adequate descriptions of agenda items and depriving the public of notice of the true nature of the discussion and that other matters besides the Strategic Plan were discussed, and documents were distributed to members prior to the meeting that were not listed on the agenda. He urged a finding of a violation for improper notice and a finding of willful failure.

Michele Seaton, Respondent: Said that the discussion was about the Strategic Plan, the overarching document that governs its mission and activities, the Commission wanted to take a step back and review that mission and the implementation of the Strategic Plan and the entire meeting was devoted to that, as noted on the agenda, from review of the Charter, committee structure and meeting formats to the review of the goals and objectives, to the leadership structure. She said the item was meant to be a wide-ranging discussion and she apologized that there were documents distributed prior to the meeting that were not noted on the agenda, that this is not the practice of the her office, that she was on leave when the agenda was prepared and apologized. She said that if the agenda was too vague that the problem lies with the staff of the Health Commission, not with the officers or commissioners.

Mr. Shaw, in rebuttal, said that the major matter discussed at the meeting was the role of the department's leadership structure and of the Commission itself, however only the Strategic Plan was listed on the agenda. He said that the vagueness of the agenda and the unusual step of holding such a meeting off-site at Laguna Honda, led him to conclude that the meeting was about Laguna Honda and prevented him from preparing for such a broad range of issues, including the disclosure by the facilitator that Dr. Katz had submitted his resignation, at which time the focus of the meeting became clear, and it was not the Strategic Plan. And , he said that the Commission's President is ultimately responsible for accepting the agenda as written.

Public Comment: Kim Crossman said that the Health Commission should be held accountable for a misleading and inaccurate agenda item. He compared the officers failure to take responsibility to Abu Ghraib

Vice-Chair Craven: Because this was a Special Meeting, the requirements of the agenda descriptions are more critical to fully inform the public. The summary of the meeting shows that the Strategic Plan was only one of several items to be discussed, in fact, it was listed fourth in the summary. There is no evidence of intent, however, that they wanted to exclude the public or hide the intended discussion.

Member Knee: Agreed, it does not constitute willful violation. He is not satisfied the item as listed is specific, and it appears to be a violation of §67.7, proposed the some language for finding of violation.

Chair Comstock: The item was unfortunately not better noticed, but does not indicate a clear violation. There is a real need for wide-ranging discussions by boards and commissions and it shouldn't be discouraged. Suggested that a letter requesting the commission review their policy regarding agenda designation of items.

Member Knee: Thinks there is some seriousness to the violation, they seemed to be talking about leadership structure in light of the resignation of the Director as well as revamping leadership of the department, none of this is discernable from the agenda description.

Member Chu: The agenda only tells us what they were planning to talk about, and the topic is sufficiently broad to include a wide discussion, and from the transcript the Commissioners seem to have been confused about what they were allowed to talk about. In hindsight, it could have been better written. She doesn't see it as a violation, however.

Vice-Chair Craven: When the facilitator began the discussion, he did state the subjects of discussion, one of which was the leadership structure, so the facilitator had previous knowledge of the direction the discussion would take.

Member Chu: You feel the whole Board knew that? Or just the facilitator?

Vice-Chair Craven: I think the facilitator probably talked with the Commission President beforehand to set the discussion. It sounds like someone had a detailed agenda before it started.

Chair Comstock: I'm troubled by this item because the transcript seems to indicate that some of the attendees were aware of the direction the item was leading. I'm not convinced that the Commissioners knew where it was going, other than that was an open-ended discussion that they were trying to encourage. I'm still not convinced there is a violation.

Member Cauthen: This is a tough one, the announcement of the resignation at this time, and the declaration by the facilitator at one point that "we're moving beyond where we've agreed to go." I don't think there was intentional violation by the Commissioners, but I think they need to be more careful of the public's rights when the descriptions are framed, and also so that the Commissioners know what they need to be prepared to discuss.

Chair Comstock: That particular line in the transcript was the most troubling aspect to this complaint, it gives the impression that the facilitator had a different agenda from what was indicated to the public. But it's not evident that the facilitator shaped the direction of the meeting in cooperation with someone else, or whether he did so himself.

Motion finding a violation of §67.7 of the Sunshine Ordinance for failure to identify with sufficient specificity the subject matter that would be discussed at the May 15, 2007 meeting of the SFHC. (Knee / Chan)

Ayes: Craven, Knee, Cauthen, Chan Goldman

Noes: Chu, Comstock

Absent: Pilpel, Wolfe

Excused Absent: Williams

Motion failed.

Member Cauthen: Could we note in the letter that we only had seven of eleven members present?

Vice-Chair Craven: Your request is that we should write a letter, perhaps it should say that there was a motion, there was concern that the agenda was not as detailed as it could have been, and encourage better agendas in the future.

Chair Comstock, by consensus of the Task Force agreed to write a letter to the Health Commission informing them that there was a motion made to find them in violation of the Ordinance, but the motion failed. The letter will also express the Task Force's concern that the agenda was not as detailed as it could have been and will encourage the Health Department to take particular care with agendas in the future.

No further action was taken on this item.

4. Report: Compliance and Amendments Committee: meeting of July 11, 2007.

Chair Knee made the report.

He said that the minutes were revised and will be redistributed. He informed the Task Force that the CAC's September meeting would take place on Monday, September 10, 2007.

Public Comment: None

5. 07030 The Compliance and Amendments Committee has referred to the Task Force for further consideration their recommendation that the Department of Public Health (DPH) be found in willful failure and official misconduct for failure to comply with the Sunshine Ordinance, and failure to comply with the Order of Determination issued by the Task Force on June 26, 2007, by failure to produce the e-mails of Dr. Jeffrey Klausner for the month of December 2006, and that a referral, based on that finding, to the Ethics Commission and to another appropriate body be considered.

Mr. Petrelis: Could the Task Force continue this item until more members are present?

Chair Comstock: A continuance could be granted, if it is approved by a majority of the members:

Member Craven: I suggest that the matter be heard and voted on and if there are not enough votes to recommend a referral that the Task Force revisit the issue of referring it at the next Task Force meeting.

Administrator Darby: The Task Force could also postpone hearing the matter until later in the agenda, since other members are expected to arrive.

Member Knee: I recommend that the matter be postponed until later in the agenda.

Chair Comstock: Question to DCA Llorente how they might proceed.

DCA Llorente: The Task Force should consider the complainant's request, since the Department has indicated that they will not attend.

Chair Comstock: I would grant the continuance if there are no objections.

Mr. Petrelis: Requested to withdraw his request for a continuance and asked that the matter be heard.

Complainant: Michael Petrelis, Complainant, said that the department is guilty of willful failure and official misconduct. He said that DPH did not attend the CAC meeting and did not comply with the Order of Determination. He urged that the matter be referred to the Ethics Commission as the law requires.

Public Comment: Kimo Crossman said that Dr. Katz, Dr. Kausner and Ms. Shields be identified and referred for willful failure and official misconduct. He urged that the matter be sent to the Board of Supervisors, District Attorney and Attorney General.

Patrick Monette-Shaw said that, by not attending the meeting, the department is thumbing its nose at the process and urged referral to the Ethics Commission.

Member Knee: Said that no crime has been committed, so the D.A. and the Attorney General referrals would not be appropriate, but there is willful failure and there is misconduct and he moved to refer to the Ethics Commission.

Vice-Chair Craven: Tends to agree with that, though the Attorney General does have authority to investigate violation of local laws, there doesn't have to be a crime. And our D.A. has a broader set of duties than most D.A.s, for example they investigate consumer complaints and consumer issues. In light of recent correspondence from the A.G., however, declining to investigate another one of our referrals, she would prefer that it go to Ethics.

With regard to the limited nature of the referral, Ms. Shields came forward with information prior to the meeting of the C&A meeting that the calendar does not exist, therefore we are dealing only with the matter of the e-mails.

She feels very strongly that this issue qualifies as willful failure, simply because the law is clear and the Ordinance is clear. The cases that the City Attorney has given them to rely on basically all come within the CPRA §6255 "balancing act" which the Ordinance clearly disclaims and it cannot be invoked. Asking for e-mails, sent during a certain period is an identifiable record and if the Department needs to take three months to redact inappropriate information, then that is what they should do. That happens all the time at the State and Federal level and should happen here at the local level.

Member Cauthen: Thinks we should make an example of the department because the attempt to resurrect §6255 is becoming common again and would be a major step backward.

Motion finding the Department of Public Health, through its officers Dr. Mitch Katz and Eileen Shields in willful failure and official misconduct for failing to comply with the Sunshine Ordinance, and failure to comply with the Order of Determination issued by the Task Force on June 26, 2007, for not producing the e-mails of Dr. Jeffrey Klausner for the month of December 2006. The Task Force refers this matter to the Ethics Commission for investigation and remedy to the extent that the Commission deems appropriate. (Knee / Goldman)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Chan, Goldman

Absent: Pilpel, Wolfe

Excused Absent: Williams

6. Possible amendments to Sections 67.9, and 67.12 to 67.18 of the Sunshine Ordinance and subsequent sections as time permits.

- a. Sec 67.9 Agendas and Related Materials: Public Records.
- b. Sec 67.12 Disclosure of Closed Session Discussions and Actions.
- c. Sec 67.13 Barriers to Attendance Prohibited.
- d. Sec 67.14 Tape Recording, Filming and Still Photography.
- e. Sec 67.15 Public Testimony.
- f. Sec 67.16 Minutes
- g. Sec 67.17 Public Comment by Members of Policy Bodies.
- h. Sec 67.18 Supervisor of Public Forum (new proposed section)

§67.9, Agendas and Related Materials

Vice-Chair Craven: Member Comstock had to step out. This is similar to the existing Ordinance, but that there have been many complaints about materials being presented immediately prior to a meeting, for example when a Department hands out a letter to members at a meeting or prior to the meeting without sufficient time for the members or the public to consider the documents. That has been addressed, so that when there is a contract or plan that the body is going to be reviewing, the public and the body will have an opportunity to study the matter before a vote is taken.

Administrator Darby: I believe we included this because Chair Comstock had some changes to

recommend.

§67.12 Disclosure of Closed Session Discussions and Actions

Vice-Chair Craven: Much of this is consistent with the Brown Act, however, there is a significant addition, Subdivision (f) is a concept borrowed from a New Jersey open document law, and comes to us by way of a suggestion from the Chair. It requires that each policy body maintain a file of Closed Sessions which records the date, time, and justification for each closed session. At least quarterly, the body shall review that record to ascertain that the justification for maintaining the privacy of the record still applies. For example when litigation is settled, or the statute of limitations is passed, it is no longer necessary to maintain its secrecy and the files shall accordingly be made public. Other examples include public employee contracts, purchasing decisions and real estate. I think this is very innovative and very helpful, once departments get over the initial resistance, it should be very easy to maintain a list. We made it clear that the consideration of files would be going forward, so they do not have to go back into the long history of Closed Sessions, which would be a burden. I recommend that we pass this. Any questions, dissenting opinions? Seeing none, moving on.

67.13 Barriers to Attendance Prohibited.

Vice-Chair Craven: New provisions in this section were made with advice from the representative of the Mayor's Office of Disability, who gave us good ideas to make this language stronger and more user friendly.

Timelines were added for when requests for assisted listening devices or interpreters should be made. Fulfilling interpreter requests is not mandatory if made less than 72 hours in advance, though the departments should strive to fulfill such requests even when made after the 72 hour time has lapsed.

We encouraged all policy bodies to broadcast their meetings on the City's SFGTV channel or via audio and/or video streaming on the internet.

In (g) added that all policy bodies and passive meeting bodies shall comply with the Mayor's Office of Disability Successful Public Events Checklist, a list they use to advise bodies about what they need to do to assure accessibility.

Member Wolfe: Re (f), broadcast of meetings, noted that the Mayor attempted to remove funding for some of the broadcast of meetings, and he would like stronger language to discourage such attempts.

Vice-Chair Craven: Requested suggestions for language that would accomplish that. Noted that consideration was given at the CAC to do that, but we did not find any language that could do that without requiring that all bodies be televised or that was not fiscally or technologically, a nightmare. Some rooms are not equipped for broadcast, and we didn't want to specify one commission over another.

Member Wolfe: Suggested a timeline to comply with stronger language, such as by the year 2010 all bodies shall be televised.

Member Knee: Agreed with the deadline idea, suggested that we check with the Controller or another office that could give us a sense of what the costs associated would be.

Chair Comstock: Noted that we still need language and a landing place for it.

Member Wolfe: Suggested "All policy bodies shall be televised, and/or broadcast over the government channel and/or via audio or video stream on the internet by the year 2010.

Chair Comstock: Supposed there could be opposition to the item and to the amendments as a whole by those who feel the associated costs are prohibitive and unnecessary. The Controller's statement in the ballot handbook would use this and other associated costs in his summary to the voters, and that big ticket prices would tend to discourage more conservative voters from approving

the amendments, especially as we head for a June ballot.

Member Wolfe: Asked if the other amendments we are requesting have any fiscal considerations attached?

Vice-Chair Craven: Opined that some of them do, and this would be a large ticket item that would add to that.

Member Cauthen: Stated that, while she would like to see this mandated, it could be a deal-breaker.

Member Wolfe: Noted that there were stanchions for broadcast located around the room for cameras and that there may very well be wiring already in place there for them. There is likely a plan to do this sometime in the future, since the provisions are in place, so it's just a matter of what year it will get budgeted.

Member Knee: Suggested we need to determine what the state of the various rooms is.

Administrator Darby: Inquired if we were talking about bodies that meet in City Hall or those that meet in other places as well? That Media Services might be our best bet for information of that nature regarding the rooms at City Hall.

Vice-Chair Craven: Noted that we could limit the requirement to policy bodies in the Charter.

DCA Llorente: Advised that we change the language now to capture the consensus of the group, then leave it open for discussion after we have consulted with departments to determine if it is fiscally and politically possible.

Vice-Chair Craven: Suggested language – "The Board of Supervisors, its standing committees and all Charter Commissions shall, by 2010, broadcast their meetings on the San Francisco government cable channel, and/or via audio and video streaming on the internet. All other policy bodies are encouraged to broadcast their meetings similarly, as feasible.

Chair Comstock: Requested that §67.9 be postponed until Member Pilpel is present, because he had expressed some objections to the language.

67.14 Tape Recording, Filming and Still Photography.

Member Cauthen: Prefers language that states that "the recordings, etc shall be kept by the department to which they pertain" to increase access. She cited the Library CAC's recordings, which the Library refuses to keep, so the recordings are kept at a member's home.

Vice-Chair Craven: Agreed that keeping records at someone's home is not acceptable, however the City is moving toward a central storage, especially as meetings become more digitized. This will result in economies of scale and cost savings. If each department has to have its own storage server, it becomes more costly.

Member Cauthen: As the City moves to digital or disc, the amount of space is not that great, the problem is getting departments to do it.

Vice-Chair Craven: Suggested language: "shall be kept indefinitely on City premises."

Member Wolfe: Said we need to look at what the plans are for the future and that we need to determine that from DTIS and other entities regarding a central repository for all information. There is a data center, and there is backup all the time so that it is stored somewhere or in cyberspace. What is important is that there is a backup of information.

Vice-Chair Craven: "shall be kept by the City" would encompass all the meetings, and allow departments with great storage facilities to continue to store info as they do now.

Chair Comstock: Looking at the language "encouraging bodies to digitally record their meetings", wondered if they could be required to digitally record their meetings by a certain date, noting that we do have to move in that direction. (Held up four boxes of tape recorded data.) This is just one meeting.

Member Wolfe: Stressed there are economic and environmental advantages to moving to digital recordings.

Member Chu: Asked if that was within our scope or jurisdiction to inform departments what media their records should be kept on? Does this operational detail bring us some advantage? Won't we be finding violations for failure to record digitally?

Vice-Chair Craven: Stated that it is within our jurisdiction to mandate that they are all taped, and the language now states that they be audio tape recorded, so we are trying to broaden the language to allow digital recording, rather than narrowly define how they shall be recorded as Chair Comstock suggested.

Chair Comstock: Said that he had spoken to a technician from DTIS or Media Services, regarding recording the meetings on his iPod, he was informed that the rooms are all wired for digital recording. Only the media equipment would have to be changed, perhaps requiring only a different input jack and a program to record sessions that can be downloaded for free could replace the tape recording machines.

Vice-Chair Craven: Notes that, even for off-site locations, there are inexpensive digital recording machines that would provide economic storage benefits as well as posting and feasibility. So she's not averse to saying "required" as long as we give it at least 5 years to comply.

Member Wolfe: Stated that these rooms are the only ones left that record by tape, everything else is being video recorded and stored digitally or online, so we are already there. We are doing the digital recordings. These devices that need to be replaced are very inexpensive, the Ordinance is lagging way behind technology.

Chair Comstock: Adds that there are Sunshine considerations as well, since digital recordings can be easily accessed over the web and that a digital record is more user-friendly, because you have to go through all of these tapes to find the portion that you seek, while digital records provide a dial or button that quickly moves the inquirer to the desired portion.

Member Chu: Clarifies that she is not saying digital is not good, just that she doesn't look forward to having to find a violation for failure to digitally record a meeting. Departments may find this to be overreaching.

Member Wolfe: Explained that our goal must be to move Sunshine and accessibility forward, but perhaps we could include a phrase that would allow bodies that can't afford to acquire new equipment to continue to record on tape. He expressed frustration with trying to find a particular statement on a tape recording that may be several hours long as being almost impossible. Online video recordings have a jump feature that quickly move you to the portion that you are interested in.

Vice-Chair Craven: Pointed to complaints we've had about erased tapes that were principally the same. The question is what is reasonable. We had considered requiring that Sunshine responses be posted online to decrease the number of repeat requests, etc. This requirement is in Assemblyman Leno's bill before the legislature now.

Administrator Darby: Speaking as a Records Manager, we often have to look at whether the technology will continue to exist in the future and whether we will be able to continue to retrieve that information later as the technology moves forward. Keep in mind as you make narrow requirements that the City may have to bear the costs of migrating that information to a new technology and keeping the old technology to read the information.

Vice-Chair Craven: Observed that is what we are doing now with tape recordings and asked if anyone had been to a microfiche room recently.

Chair Comstock: Remarked that we should get an estimate of the costs to convert to the new technology when DTIS or similar authorities are before us.

Vice-Chair Craven: Proposed that the language require digital recording by 2013.

Member Chan: Stated that he supports digital recording.

\$67.15 Public Testimony.

Chair Comstock: Introduced the changes. (c) Time and Order of Speakers is a substantial change.

Vice-Chair Craven: (b) shouldn't be underlined, it is not new, it was moved from (a) to (b). (c) has substantial changes, including raising the minimum speaking time to three minutes.

Member Cauthen: It currently says up to three minutes, originally it said a minimum of three minutes, now it's back to that, which is a good idea.

Vice-Chair Craven: And it provides an out, under (2) that gives leeway to the Chair to allow only two minutes under certain defined conditions. We had considered allowing five minutes, but reconsidered after a time and went back to three.

Member Cauthen: Asked what a "large number of speakers" means.

Chair Comstock: That is left up to the discretion of the Chair. But the recently overused automatic two-minute time limit without any consideration of the size of the audience, was not what the relaxed limitation in Prop G contemplated.

Vice-Chair Craven: In addition, there is the accommodation for those who need extra speaking time, such as speaking through an interpreter, or someone who has speech challenges.

Member Cauthen: Accommodation needs to be clarified, because a Chair could accommodate a speaker who hadn't said everything they wanted in three minutes. We need to spell out the interpreter and speech challenged public in the language.

Vice-Chair Craven: Agreed. So the language should read, "who need accommodation for an interpreter or because they have a disability."

Chair Comstock: Item (3) Authorizing a Designated Speaker may be more controversial than the other items, but only initially. This is an idea that neighborhood activists have been advocating for many years, and from many years of experience, it has been observed that when there is a controversial issue before a board or commission, there is usually a leader, or there are a few leaders that are more knowledgeable than their supporters on an issue, and there should be an accommodation for those leaders. This would tend to even the playing field, since departments can present their side on an issue without limitation of time, and often may take an hour or more to make a presentation, while the public is often limited to two minutes, regardless of their expertise. Sometimes there will be a board or committee member who will graciously ask a question, but this usually only happens when there is a member who is friendly to the sentiment of the speaker, and is an end-run around the Ordinance as well as being unfair to those who espouse a particularly unpopular opinion. This solution came about in cooperation with Martin MacIntyre, the first President of the Coalition for San Francisco Neighborhoods (some 35 years ago).

Having a designated speaker gives community groups an opportunity to present their case in full by a knowledgeable speaker, whether in opposition or support of a proposed action. This item gives a Designated Speaker or Speakers up to 15 minutes to present the views of a group. It will not take up more time than is currently expended, since members of the public, willing and present, donate their three minutes to the Speaker.

Member Goldman: Asked, "How do they manage that? So no one else can speak on the issue?"

Chair Comstock: Public Comment is allowed, as it currently exists. Only those who designate their speaking time to the Speaker will not be allowed to speak. (3)(B) defines the method for designating a Speaker. It requires that six members of the public be present and prepared to speak and that they relinquish their time to the Designated Speaker in writing.

And the Speaker as well as the department or whoever is proposing an action, will have five minutes immediately prior to the vote to summarize if they choose to do so.

Member Chan: So if I bring 15 people, and they donate their time that I would be allowed to speak 45 minutes?

Vice-Chair Craven: No it is a maximum of 15 minutes. And we need to be clear that it is not a case where six people could hand in Designated Speaker cards and then leave the meeting, they must be present for the presentation. Interest groups already pack meetings and instruct speakers regarding their speaking time, so it's not so different from the way it is currently, nor is it subject to abuse that doesn't already exist. I think it is a very interesting idea.

Perhaps the most controversial part of this is the part that allows the Designated Speaker 15 minutes or as long as the department had to present their case. This is in response to many complaints we've heard about how long presentations, with several speakers and consultants who may speak for 40 minutes, while the public is limited to two minutes. I don't find this to be inherently bad. While it is important that boards and commissions hear a full report on proposed legislation, and be allowed to ask questions to their satisfaction, I'm not sure they should be required to give equal time to the "gadflies," since the time of a commission is valuable. I am not against this, but I can see that this might be the cause for Complaints in the future, because it is difficult to administer. However, since it does exclude the time for questions and answers from the board, it may not be as difficult as it otherwise would be.

Member Wolfe: Doesn't think the public would have much of a problem if they were confident that the board would ask the questions they want to have asked. The public gets exasperated when, for example, a committee passes on something without asking the questions the public may want to hear. I think the public would want to have equal time to make their case. And you will have the "gadflies" who do come and do the work, and they do it for free.

Chair Comstock: I'd be willing to scratch, "or for the time which is equal to the time...posed by the body." If that would facilitate the passage of the amendments, so that we could take this baby step now, and add the equal time language perhaps ten years down the line.

Vice-Chair Craven: Then we should take out the "up to" so that the Speaker shall present arguments for 15 minutes.

Re item (4), we have had several complaints about the order of speakers, and the public's perceived bias by the Chair of some commissions and the order of speakers. However, I would give the Chair discretion when there is good cause, such as when there may be childcare issues. So that it reads: "A chair shall accept public testimony in a fair and evenhanded way, without manipulation in the order of speakers, *absent good cause*."

Member Cauthen: (4) A) should read: "Speaker cards, when available and submitted, shall be used in the order of submission to *designate* the order of speakers" rather than "*as the order of speakers*."

Chair Comstock: Very good.

Vice-Chair Craven: That leaves (4) (f), a significant addition that should be called out.

Member Goldman: Isn't this common sense, kind of ADA compliant?

Vice-Chair Craven: This came to us from a complaint by Mr. Chaffee, because he was not allowed to use a projector or other equipment that the Library Commission had used, to make his public comment presentation. So this is a provision to allow that based on a complaint that has come before us.

Member Wolfe: Mr. Chaffee has been making Powerpoint presentations to the Board of Supervisors for at least a year, so the Library Commission should have no qualms about allowing him to use their equipment.

§ Sec 67.16 Minutes

Chair Comstock: There are a few changes in (b). For example, that the minutes shall reflect when members arrive and depart. And then later "Any person may submit written comments that shall, if no more than 150 words, be included in the body of the minutes."

Member Cauthen: Or be attached, I think that would keep the minutes from being cluttered by lot of comment, as long as the comment is referenced it would be better to be attached.

Member Wolfe: Where would the reference be located?

Member Cauthen: In the body of the minutes, and I think we need to insert some language here that would require the City Administrator to provide assistance to the person who takes minutes about how to attach comments to documents to fulfill the web requirement in (c). I know we've had complaints about secretaries who responded that they didn't have the technical know-how to fulfill some requirement, and I know that, as the new Chair of the Library CAC, I would not have the know how to attach something to a document for the web. I would insert some language in (c) after "website," "the CAO will assist policy bodies in carrying out their duties under this subsection."

Chair Comstock: Any objections to that? No? I think it helps.

Vice-Chair Craven: Suggested the language regarding real time captioning in the last sentence, should add the word "also" so it is less confusing. And that the CAO assistance language Member Cauthen suggested should come after the last sentence that deals with real time captioning.

Member Wolfe: Asked if there was any suggestion from the Mayor's Office of Disability came to the CA C, did they have any suggestions about leaving the door open for new technologies that may develop in these provisions? I just want to make sure we leave the language broad enough to adapt to new circumstances.

Member Craven: They talked about specific language that avoids problems down the line regarding certain phrases, there was no discussion about technology per se. I think the term "captioning" captures any similar technology that may come about for now.

Member Wolfe: I'm concerned about "real time" which is a specific technology that will evolve.

Member Craven: Would simply saying "captioning" be better?

Member Wolfe: No, I was just wondering if the MOD had any comments about the phrase.

§ Sec 67.17 Public Comment by Members of Policy Bodies

Chair Comstock: This language is pretty much the same as the old language

This is meant to clarify the intent of the Ordinance regarding the members rights to speak on issues that may not be popular with a majority of the members. There is a member of the PUC's Revenue Bond Oversight Committee, an appointee from the Board of Supervisors, and an engineer who is not allowed to speak unless he has permission from other members to do so. I do not think this is what being on a Board or Commission is meant to be about.

Member Wolfe: Tends to agree, but are we limiting the ability to deliberate? Roberts Rules allows speakers to speak two times. How about allowing bodies to set up their own rules.

Chair Comstock: That is just the problem at the RBOC, where members who have been appointed to oversee the expenditure of billions are not allowed to satisfy the questions they have before they vote on issues.

§ Sec 67.18 Supervisor of Public Forum (new proposed section)

Vice-Chair Craven: This came from public suggestions, because whereas we have a Supervisor of Records, we do not have something similar for meetings.

Member Wolfe: Asked whether this position could be adjoined to our body, because we're having an individual make determinations. I'm uncomfortable with this.

Vice-Chair Craven: I think it's a good thing to have a stand-alone person you can go to if you need definitive clarification regarding a public process, such as: "does the Chair have to take public comment on each subdivision of an item on the agenda, or only on the item?" The SOTF may agree or disagree with the conclusion of the Supervisor of Public Forums.

Member Chu: Cautioned about the perceived cost of the position, and inquired if it could be combined with the Supervisor of Public Records?

Chair Comstock: Pointed to the fact that there are so few complaints about public meetings, that it would not be a full-time job. It would likely be assigned to existing staff.

Speakers: None

Sections 67.12 through 67.18 were discussed and the Administrator recorded recommended amendments.

Chair Comstock: Asked the Administrator to invite someone from the Controller's Office, the Department of Telecommunications and Information Services and Media Services to attend a subsequent meeting to discuss the feasibility of requiring digital recording as proposed in §67.13 (f), and 67.14 (d), and to provide an estimated cost to implement such measures.

7. Discussion regarding the Budget Committee's proposed mission/goals:

- The Committee shall provide input to the Sunshine Ordinance Task Force regarding its budget.
- The Committee will assess the needs of the Task Force and its related efforts to implement and enforce the San Francisco Sunshine Ordinance.
- The Committee will advocate for full funding for the Task Force and evaluate and estimate the needs of the Task Force to operate at optimal performance level.

Member Wolfe made the report. He suggested that the Committee may be responsible, in part, for the new staffer that the Task Force will soon have.

Speakers: None

8. Administrator's Report.

The Administrator made the report.

Member Craven suggested that the Chair forward a copy of the Attorney General's letter to each member of the Ethics Commission and the Board of Supervisors, so that they know what the Attorney General is saying.

Chair Comstock said that he would forward a copy of the letter to suggested individuals.

Chair Comstock said that he was concerned about the impression that he received from Jeff Ente, whom he had encouraged to file a complaint, that the Administrator discouraged him from filing a complaint, because of a statement made by Supervisor Peskin's office. He said that the Administrator should not be seen as taking sides on an issue; that persons should be encouraged to use the process, especially since many are not knowledgeable of the process. Chair Comstock said that Mr. Ente was frightened by the way the Administrator continually discouraged him, and cautioned the Administrator to encourage filers to participate in the process and express themselves, and that he should not take the word of Peskin's office.

Administrator Darby responded that he does not discourage parties from filing complaints; that the process he uses to mediate matters is the same for both complainants and respondents. He said that he doesn't take the word of any party or show favoritism; that he does inform parties of the complaint process and what the Task Force expects. He attempts to resolve the matter if it can be resolved without a hearing, but if that does not occur, he asks the Complainant if they would like to move forward with a hearing.

DCA Llorente responded that when dealing with legal process and due process parties should be

made aware of how the process works; that those hearing the case will base their decision on the evidence that they hear. He said that when giving an objective view of the way the case would play out, some people, especially those new to the process, may take it negatively because they didn't realize they needed to present some evidence.

Speakers: None.

9. Public comment for items not listed on the agenda. Public comment to be held at 5:00 p.m., or as soon thereafter as possible.

Speakers: Kimo Crossman, said when there is a close quorum, e.g., six or seven members present, the Complainant should be notified before their item is heard so that they might request a continuance, because six votes are needed on substantive matters, and is often very difficult to attain. It constitutes a super-majority, a unanimous vote is needed when there is a bare quorum of six members. The TF should consider reopening cases where such a majorities were required.

Patrick Monette-Shaw: Said that he was not aware that six votes were required to find a violation in his matter, otherwise he would have asked for a continuance. He said that he would like to have his matter reconsidered and asked that a Task Force Member, on the prevailing side, reopen the matter at a future meeting when more members are present. He felt that it was unfair.

Michael Petrelis: Said that he filed a complaint against the SF AIDS Foundation, which is a 12L organization, because they have "guidelines" on their website that hinders or prevents attendance of the public to their required Sunshine meetings.

DCA Llorente: Informed members that individuals with a complaint against a 12L nonprofit organization must first seek dispute resolution with the City department who is administering the contract before seeking an advisory opinion from the Task Force.

10. Announcements, questions, and future agenda items from the Task Force.

Chair Comstock: Informed Task Force (TF) members of a request from the Graffiti Advisory Board that a representative of the TF attend their August 9, meeting to discuss the Sunshine law meeting requirements. By consensus the Task Force nominated Member Pipel to attend the meeting and asked that the GAB be urged to also invite DCA Paul Zarefsky to discuss communications outside of the regular meeting (seriatim meetings).

Member Knee: Informed the Task Force that the Board of Supervisors is having a special Rules Committee meeting at 10:00 am on Thursday to discuss having a closed door meeting bimonthly to discuss emergency preparedness and homeland security issues, which he has concerns about. He urged members to attend their meeting.

Member Knee also informed the Task Force that Supervisor Alioto-Pier is sponsoring a charter amendment, for the February ballot, that will set minimum service qualifications for members of City bodies that oversee and administer election, campaign finance, lobbying, conflict of interest, open meeting and public records laws. It would prohibit persons who have run for office in the last four years, or managed a campaign, been a treasurer, etc. from serving on the Ethics Commission, Elections Commission, or the SOTF. He said that members should be concerned about this amendment.

Member Wolfe: This is aimed at people like me, Doug Comstock and Eileen Hansen, it appears to be aimed at activists.

Chair Comstock, asked the Administrator to agendaize a discussion re: the text of the Proposed Charter amendment and to get a copy of proposed language from the Clerk of the Rules Committee; also to invite someone from Supervisor Alioto-Piers office to attend the meeting.

Vice-Chair Craven: Stated that she doesn't see the nexus that would bring a discussion of the qualifications for appointments under our jurisdiction.

Chair Comstock: To the extent that it sets the parameters for appointment to this Task Force that

are already set out in §67.30, it is within our jurisdiction.

Member Chan: Asked when the CAC would be discussing proposed amendments to Article IV of the Ordinance.

Member Craven: Said that they will discuss it during the August meeting.

Member Wolfe: Apologized to the Task Force for being late to various meetings. He said that he has a new job in Marin.

Administrator Darby: Reminded Chair Comstock of an e-mail that he sent notifying him of a possible quorum issue at the Complaint Committee.

Chair Comstock: Informed members that he has a work related problem that limits his time as well.

Speakers: None

Adjournment

The meeting was adjourned at 7:10 p.m.

This meeting has been audio recorded and is on file in the Office of the Sunshine Ordinance Task Force.

TEXT ONLY:



PRINT:



TEXT SIZE:



August 28, 2007

SUNSHINE ORDINANCE TASK FORCE AGENDA

Tuesday, August 28, 2007
4:00 p.m., City Hall, Room 408

Task Force Members

Seat 1	Erica Craven (Vice Chair)	Seat 8	Bruce Wolfe
Seat 2	Richard Knee	Seat 9	Hanley Chan
Seat 3	Sue Cauthen	Seat 10	Nick Goldman
Seat 4	Vacant	Seat 11	Marjorie Ann Williams
Seat 5	Kristin Chu		
Seat 6	Doug Comstock (Chair)	Ex-officio	Angela Calvillo
Seat 7	David Pilpel	Ex-officio	Vacant

DOCUMENTS DEP

JUN - 9 2008

SAN FRANCISCO
PUBLIC LIBRARY

Note: Each item on the Agenda may include minutes, department or agency letters and reports; Task Force reports; and public correspondence. These items will be available for review at City Hall, Sunshine Ordinance Task Force, Room 244.

Call to Order

Roll Call

Agenda Changes

1. a. Approval of minutes of July 24, 2007. (action item) (5 min) (attachment)
- b. Approval of minutes of June 13, 2007, Special Meeting. (action item) (5 min) (attachment)
2. Discussion re: 071051_Charter Amendment - Minimum qualifications for members of City bodies that oversee and administer election, campaign finance, lobbying, conflict of interest, open meeting and public records, sponsored by Supervisor Alioto-Pier. (discussion and possible action) (10 min) (attachment)
3. Discussion re: Digital recording of meetings. (discussion and possible action) (10 min) (attachment)
4. Report from Complaint Committee meeting of August 14, 2007. (Sue Cauthen) (action item) (10 min) (attachment)

- a. 07038, 07043, 07044 Determination of jurisdiction of complaint filed Anonymous Person against the Entertainment Commission for alleged failure to provide requested records and to release information. (action item)
- b. 07052 Determination of jurisdiction of complaint filed by Allen Grossman and Wayne Lanier against the San Francisco District Attorney's Office for alleged violation of Sunshine Ordinance §§67.21, 67.24, 67.25, 67.26, 67.27, and 67.34 for failure to provide records, to keep withholding to a minimum, to justify withholding and untimely response. (action item)
- c. 07055 Determination of jurisdiction of complaint filed by Kimo Crossman against the District Attorney for alleged violation of Sunshine Ordinance §67.21 for failure to provide requested records. (action item)
- d. 07056 Determination of jurisdiction of complaint filed by Myrna Lim against the Ethics Commission for alleged violation of Sunshine Ordinance §67.21 for failure to provide requested records. (action item)
- e. 07057 Determination of jurisdiction of complaint filed by Jeff Ente against Supervisor Aaron Peskin for alleged incomplete production of documents. (action item)
- f. 07059 Determination of jurisdiction of complaint filed by Paul Graham against the San Francisco Fire Department for alleged failure to use redacted process to provide comprehensible records. (action item)
5. 07038, 07043, 07044 Public Hearing, complaint filed Anonymous Person against the Entertainment Commission for alleged failure to provide requested records and to release information. (action item) (30 min) (attachment)
6. 07052 Public Hearing, complaint filed by Allen Grossman and Wayne Lanier against the San Francisco District Attorney's Office for alleged violation of Sunshine Ordinance §§67.21, 67.24, 67.25, 67.26, 67.27, and 67.34 for failure to provide records, to keep withholding to a minimum, to justify withholding and untimely response. (action item) (30 min) (attachment)
7. 07055 Public Hearing, complaint filed by Kimo Crossman against the District Attorney for alleged violation of Sunshine Ordinance §67.21 for failure to provide requested records. (action item) (30 min) (attachment)
8. 07056 Public Hearing, complaint filed by Myrna Lim against the Ethics Commission for alleged violation of Sunshine Ordinance §67.21 for failure to provide requested records. (action item) (30 min) (attachment)
9. 07057 Public Hearing, complaint filed by Jeff Ente against Supervisor Aaron Peskin for alleged incomplete production of documents. (action item) (30 min) (attachment)
10. 07059 Public Hearing, complaint filed by Paul Graham against San Francisco Fire Department for alleged failure to use redacted process to provide comprehensible records. (action item) (30 min) (attachment)
11. Report: Compliance and Amendments Committee: meeting of August 8, 2007. (Richard Knee). (discussion and possible action) (10 min) (attachment)
12. Administrator's Report. (discussion) (5 minutes) (attachment)
13. Public comment for items not listed on the agenda. Public comment to be held at 5:00 p.m., or as soon thereafter as possible. (no action item) (12 min)
14. Announcements, questions, and future agenda items from the Task Force. (no action item) (5 min) (no attachment)

Adjournment

Next Meeting September 25, 2007

THE AGENDA PACKET IS AVAILABLE FOR REVIEW MONDAY THROUGH FRIDAY AT CITY HALL, ROOM 244

SUNSHINE ORDINANCE TASK FORCE HEARING PROCEDURES

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations. Any person speaking during a public comment period may supply a brief written summary of their comments, which shall, if no more than 150 words, be included in the minutes. (Section 67.16)

Each member of the public who is unable to attend the public meeting or hearing may submit to the City, by the time the proceeding begins, written comments regarding the subject of the meeting or hearing; these comments will be made a part of the official public record. (Section 67.7-1 (c))

- | | | |
|----|---|----------------------|
| 1. | Complainant presents his/her facts and evidence | 5 minutes |
| | Other parties present facts and evidence | Up to 3 minutes each |
| 2. | City responds | 5 minutes |
| | Other parties of City respond | Up to 3 minutes each |

Above total speaking time for Complainant and City to be the same

- | | | |
|----|---|----------------------|
| 3. | Complainant presents rebuttal | 3 minutes |
| 4. | Public comment | Up to 3 minutes each |
| | (Excluding Complainant & City response, witnesses) | |
| 5. | Matter is with the Task Force for discussion and deliberation | |
| 6. | Vote by Task Force | |

Note: Time must be adhered to, if a speaker is interrupted by questions, the interruption does not count against his/her time.

Disability Access: The hearing room is wheelchair accessible.

Chemical-Based Products: In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals.

Cell phones, pagers and similar sound-producing electronic devices: The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decision in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact Frank Darby by mail to Administrator, Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102-4689; by phone at 415 554 7724; by fax at 415 554 7854; or by email at sotf@sfgov.org.

Citizens interested in obtaining a free copy of the Sunshine Ordinance can request a copy from Mr. Darby or by printing Chapter 67 of the San Francisco Administrative Code on the Internet, <http://www.sfgov.org/sunshine/>

Lobbyist Registration & Reporting Requirements

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance (SF Campaign & Governmental Conduct Code Sec. 2.100) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415 581-2300; fax (415 581-2317); web site: sfgov.org/ethics.

TEXT ONLY:



PRINT:



TEXT SIZE:



DOCUMENTS DEPT.

JUN - 9 2008

SAN FRANCISCO
PUBLIC LIBRARY

August 28, 2007

SUNSHINE ORDINANCE TASK FORCE**MINUTES****Tuesday, August 28, 2007****4:00 p.m., City Hall, Room 408 Task Force Members**

Seat 1	Erica Craven (Vice Chair)	Seat 8	Bruce Wolfe
Seat 2	Richard Knee	Seat 9	Hanley Chan
Seat 3	Sue Cauthen	Seat 10	Nick Goldman
Seat 4	Vacant	Seat 11	Marjorie Ann Williams
Seat 5	Kristin Chu		
Seat 6	Doug Comstock (Chair)	Ex-officio	Angela Calvillo
Seat 7	David Pilpel	Ex-officio	Harrison Sheppard

Call to Order The meeting called to order at: 4:18 P.M.**Roll Call** Present: Craven, Knee, Cauthen, Chu, Comstock, Pilpel (arrived at 4:18 p.m.), Wolfe, Goldman, Williams, Chan**Agenda Changes:** Item #6 was heard before Item #5.**Deputy City Attorney:** Ernie Llorente**Clerk:** Linda Wong**The chair announced that the Mayor has appointed Harrison Sheppard as the Ex-officio to the Sunshine Ordinance Task Force.****Ex-officio Sheppard:** Introduced himself to the Task Force. He is a practicing attorney and book publisher. His intent is to serve the mandate of the Task Force, and while he admires the Mayor, will act independently and expressed a gratitude for the privilege of serving on the Task Force.**Chair Comstock:** Suggested that a letter be sent to the Mayor thanking and congratulating him for appointing Ex-officio Sheppard to the Task Force. Without objection.**Member Wolfe:** Asked if an Ex-officio member is a part of Quorum.**DCA Llorente:** As a non-voting member, Ex-officios are not considered quorum. It has not counted in the past, and he noted that the previous Ex-officio did not sit with the other members, but with staff.**Member Wolfe:** Suggested that the Ex-officio's name be called after quorum is established.

- a Approval of minutes of July 24, 2007.

Public Comment: None

- b. The chair requested that the minutes of July 24, 2007 be continued to the next meeting. He stated that, due to a busy schedule and a vacation, he had not been able to listen to the tapes in consideration and make the detailed additions he preferred to have recorded in the minutes. He noted that he was especially anxious to memorialize the discussion of amendments, because those notes can establish intent, and that we should take advantage of this opportunity to establish that. He noted that in the case of Prop G in 1999, which is the current Sunshine Ordinance, there are no notes of those discussions, and often we have only the memories of various activists who were instrumental in the language discussions to direct our considerations.

Without objection.

Approval of minutes of June 13, 2007, Special Meeting.

Member Knee stated that Rachel Redondiez's name was misspelled.

Public Comment: Kimo Crossman said that he is impressed with the detail and high quality of the minutes.

Motion to approve the June 13, 2007 minutes. (Comstock / Knee)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Wolfe, Chan, Goldman, Williams

Absent: Pilpel

2. Discussion re: 071051_Charter Amendment - Minimum qualifications for members of City bodies that oversee and administer election, campaign finance, lobbying, conflict of interest, open meeting and public records, sponsored by Supervisor Alioto-Pier.

Public Comment: None

The chair called for a representative of Supervisor Alioto-Pier's office, Seeing none, he requested to hear the item near the end of the meeting or continue the item to the next meeting if no representative appears.

Without objection.

3. Discussion re: Digital recording of meetings.

Jack Chin, General Manager, SFGTV spoke on providing additional coverage of City Commission meetings in City Hall. There are currently five rooms in City Hall that are equipped to broadcast on the City's channels 26 and 78. There are seven Board of Supervisors meetings, and 14 commission and meetings that are video taped. The estimated cost for providing coverage for the 47 policy bodies (not counting Task Force and advisory bodies) is approximately \$1,175,000. The real issue is that there is limited capacity with the current

equipment and space to provide this service. For video taping of meeting outside of City Hall, the estimate cost is \$2,500 per 3 hour meeting. With regard to capacity, the department should be able to cover 150 meetings annually; therefore, the cost would be around \$306,600 per year. A letter was sent directly to Frank Darby with all the detailed information.

Chair Comstock: The chair asked Mr. Chin to send another copy of that letter to the Sunshine Ordinance Task Force email address. Also, he requested Mr. Chin to submit the cost estimate for audio only digital recording and video on demand on the City's website.

Member Wolfe: Asked for particular details about "capacity."

Jack Chin: Equipment, and space. Currently there are 2 control rooms. From each control room we can record 2 meetings at one time. We do not have space to add control rooms.

Member Wolfe: Should the SOTF recommend that meetings increase exposure in this manner, and money was there to do it, could that be done?

Jack Chin: It is possible, if money were not an issue or space, the biggest problem in City Hall is space.

Member Wolfe: Is it necessary for control rooms to be in City Hall?

Jack Chin: It would be more difficult and costly to have it offsite, even with high-speed network.

Member Knee: Regarding the 1.175 million to videotape policy bodies, Is that annual cost or initial?

Jack Chin: That's annual, these figures are based on 47 bodies and three-hour meetings, five days a week, 50 weeks per year, excluding holidays and recess time.

Member Williams : Considering the repetitious broadcast of various meetings currently on the City's channels, Does this cost include the repeating, over and over again of every meeting?

Jack Chin: No, this is just the cost for recording the meetings, it does not account for the playback time on channels.

Chair Comstock: Can you detail the costs for a limited service? Perhaps just videotaping and having it available on the web on-demand?

Jack Chin: are you asking about merely providing a feed? Or the full-service taping currently in use?

Vice Chair Craven: Currently, there are two control rooms with five live cameras and there is someone sitting in each control room, pushing the buttons so that when speakers change, the cameras. The Chair's question is about a single

camera, live feed.

Chair Comstock: The limited service feed. I'd also like the estimated cost for audio digital recordings that could be posted on the web.

Jack Chin: I'll provide a response to those questions.

Member Pilpel: Member Knee, your letter to various officials states that it is the policy of this body to increase visibility of public meetings, when was that discussion held, and where was it noticed to the public?

Member Knee: There was consensus on this issue.

Vice Chair Craven: This issue arose during a discussion of an amendment that dealt with this, at which you were absent. We all Sunshine would be increased if we could afford to do it all, but we wanted to know the costs associated with such a requirement in the Ordinance. We asked Member Knee to write the letter.

Member Pilpel: This overstates our position, I would not agree that we should televise the meetings of all policy bodies, and this letter makes that statement. We took no vote on this question.

Chair Comstock: There was an agenda item where this question came up. This letter does not convey a position, merely seeks information.

Speakers: Kimo Crossman, suggested to the chair to ask Mr. Chin about the feasibility of utilizing other facilities that belong to the City such as the Education building as well as the Main Library.

Member Sheppard: What is the policy of this body regarding video recording and broadcasting meetings of policy bodies? Is that the policy, or is it merely being examined?

Chair Comstock: It is being examined, one of our goals at the Sunshine Task Force is to advocate for increased sunshine (\$67.30). One of the best ways to do that is to increase the availability of the meetings of policy bodies to the public. So we needed to know how far we could advance that goal and I think we got some very good answers today that will be helpful as we continue with the amendment regarding this issue.

Member Knee: I don't think it's fair for anyone to take a sentence out of context, and the second paragraph makes it clear, that in the best of possible worlds, all meetings should be televised, but there are economic, technological and physical limitation factors that must be explored before we make any recommendation. That is what this letter did.

Jack Chin: My presentation may have been unclear, the costs I have given the Task Force are for capture of video only, there are separate costs for broadcasting meetings on the web or on the City's channels. Mr. Rohan Lane

may be able answer those questions.

Rohan Lane, City Hall Building Management/Video Services: There are start-up costs in addition to operational cost for SFGTV, that are associated with installing and locating these studios in City Hall. Recording five simultaneous meetings will require five control rooms, a significant expense. Space is also an issue, and because City Hall is a landmark building, any renovation is problematic. There would be an increase in staff costs. Currently we have three staff members to set-up, control and oversee the meetings that are on the City's channels. We would need to increase staff to handle additional services and events.

Member Wolfe: The City currently owns the Bill Graham Auditorium, which is seldom used and has lots of space. We have also a fiber-optic system to quickly convey any such broadcasts. Looking forward, are these factored into a future for these broadcasts?

Rohan Lane: It is possible, you wouldn't be able to use the City's network, there would have to be dedicated fiber-optics to an offsite location, It is expensive, but possible to do, though not as expensive as doing it here .

Member Pilpel: Could you explore the possibility, with the City Hall Preservation Advisory Committee and others the question of locating other facilities in spaces within City Hall, the Elections Department, for example may be moved offsite.

Rohan Lane: There would be definite benefits to having the control rooms in the building, close to other control rooms, and should space become available to expand SGTV's footprint in the building, that would be the appropriate time to do it.

4. Report from Complaint Committee meeting of July 10, 2007.

Member Cauthen made the report.

- a. 07038, Determination of jurisdiction of complaint filed by an Anonymous Person against 07043 the Entertainment Commission for alleged failure to provide requested records & to release information.

07044 Speakers: None

Chair Cauthen: Noted that this was a combined complaint.

Vice Chair Craven: There appear to be three separate issues in this complaint, permits, Halloween in the Castro, and documents such as emails.

Motion to accept jurisdiction. (Cauthen / Wolfe)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Wolfe, Chan, Goldman, Williams

- b. 07052 Determination of jurisdiction of complaint filed by Allen Grossman and Wayne Lanier against the San Francisco District Attorney's Office for alleged violation of Sunshine Ordinance §§67.21, 67.24, 67.25, 67.26, 67.27, and 67.34 for failure to provide records, to keep withholding to a minimum, to justify withholding and untimely response.
- Speakers: None
- Motion to accept jurisdiction. (Cauthen / Goldman)
- Same house, same call.
- c. 07055 Determination of jurisdiction of complaint filed by Kimo Crossman against the District Attorney for alleged violation of Sunshine Ordinance §67.21 for failure to provide requested records.
- Speakers: None
- Motion to accept jurisdiction. (Cauthen / Goldman)
- Same house, same call.
- d. 07056 Determination of jurisdiction of complaint filed by Myrna Lim against the Ethics Commission for alleged violation of Sunshine Ordinance §67.21 for failure to provide requested records.
- Member Knee disclosed that his spouse had a dispute with the Ethics Commission and asked if he should recuse himself for the jurisdictional question.
- Vice Chair Craven: On the question of recusal of a member on an item's jurisdiction, the practice has been for members to request recusal before the vote on jurisdiction. In terms of friendships and knowledge of an issue, if a member states that those factors will NOT affect his judgment (not may not) then recusal is not necessary.
- Members Williams, Cauthen, Comstock and Chan disclosed that they are acquaintances with Mr. Lim.
- Member Comstock disclosed that he had a dispute with the Ethics Commission and requested to be recused from voting on the item. He expressed an inability to judge the item fairly, due to a similar letter to the one before the body, and that the amount in question would exceed \$250, though he would not benefit financially from this particular decision.
- DCA LLorente: There are two considerations, one is if you have a financial interest in the outcome or a business interest. The other issue is the due process or fairness issue. As a quasi-judicial body, if a member has a particular knowledge of the issues or the complainant or respondent, and you are unable to be fair and impartial, only you will know that and you should so state to the

body to assist them in the recusal determination.

Motion to recuse Member Comstock (Knee/Craven)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Wolfe, Chan, Goldman, Williams

Member Knee disclosed that his spouse had a dispute with the Ethics Commission and requested to be recused from voting on the item. He invited Mr. St. Croix to comment on the issue.

John St. Croix: Stated he was not opposed to allowing Mr. Knee to remain on the panel.

Vice Chair Craven: Ms. Lim, would you like to comment on this issue? She indicated that she did not wish to comment.

Speakers: Kimo Crossman said that the Task Force is an advisory body and not a quasi-judicial body; therefore, members should not have to recuse themselves it because it only makes referrals to other bodies advising a quasi-judicial body to take an action.

Member Pilpel: Made a motion to recuse Member Knee due to the recent matter before the Ethics Commission.

Member Sheppard: Expressed the concern, that due to the mandate of the body, that there be absolutely no appearance of impropriety.

Member Wolfe: Disclosed that he had had fines from the Ethics Commission, that he had paid them, the issues were resolved. He stated it would not affect his determination of the issues in the case.

Ms. Lim: Commended the members for their integrity and their disclosures.

Paul Graham: Wise to follow counsel's recommendation, members who recuse themselves are respected by the community for their honesty.

Allen Grossman: I have no question that Member Knee could judge this matter fairly. The public may have a conception of the bias of particular members, but it is the responsibility of each member to disclose it.

Motion to recuse Member Knee (Pilpel / Goldman)

Ayes: Craven, Pilpel, Goldman

Nos: Knee, Cauthen, Chu, Wolfe, Chan, Williams

Recused: Comstock

Member Pilpel: Requested that Ms. Lim speak on the jurisdiction; he feels Ms. Lim issue is with the Ethics Commission, not the SOTF.

Member Cauthen: The issue here is a request for documents, and the Complaint Committee voted unanimously to accept jurisdiction.

DCA Llorente: The issues before this Task Force in this matter are limited to the question of public documents. Though the substance may deal with issues regarding the Ethics Commission, the Task Force may only regard the public records issue.

Vice Chair Craven: Ruled that Ms. Lim would not be asked to speak on the jurisdiction at the moment.

Member Pilpel appealed the ruling of the acting chair. There being no second, the appeal failed.

Motion to accept jurisdiction. (Cauthen / Wolfe)

Ayes: Craven, Knee, Cauthen, Chu, Wolfe, Chan, Goldman, Williams

No: Pilpel

Recused: Comstock

Member Sheppard: Asked if he had the ability to make or second a motion.

DCA Llorente: No, you may ask questions, make statements, produce documents, but with regard to motions, you do not.

- e. 07057 Determination of jurisdiction of complaint filed by Jeff Ente against Supervisor Aaron Peskin for alleged incomplete production of documents.

Speakers: None

Chair Comstock: disclosed he had been very active in his passion for the parrots in question and requested to be recused from voting on the item.

Member Pilpel: In the future, could recusals not disclose the particular bias of the member seeking to be recused?

Motion to recuse Member Comstock (Comstock / Knee)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Wolfe, Chan, Goldman, Williams

Member Knee disclosed that he is an acquaintance of Supervisor Peskin and lives in the district he represents. It would not affect his decision.

Members Chan and Cauthen disclosed that they live in District 3 as well. It would not affect their decision.

Motion to accept jurisdiction. (Cauthen / Goldman)

Ayes: Craven, Knee, Cauthen, Chu, Pilpel, Wolfe, Chan Goldman, Williams

Recused: Comstock,

- f. 07059 Determination of jurisdiction of complaint filed by Paul Graham against the San Francisco Fire Department for alleged failure to used the redacted process to provide comprehensible records.

Speakers: None

Motion to accept jurisdiction. (Cauthen / Goldman)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Wolfe, Chan, Goldman, Williams

5. 07038, Public Hearing, complaint filed by an Anonymous Person against the 07043 Entertainment Commission for alleged failure to provide requested records and to release information.

07044 Member Cauthen: These were three separate complaints filed by the same anonymous individual that has been combined to this single item.

Technical difficulties prevented the Complainant from hearing the discussion, it was moved to a later time in the meeting and technical assistance was requested from the appropriate department.

Speakers: None

Motion to continue the item to the next meeting. (Comstock / Cauthen)

Without objection.

6. 07052 Public Hearing, complaint filed by Allen Grossman and Wayne Lanier against the San Francisco District Attorney's Office for alleged violation of Sunshine Ordinance §§67.21, 67.24, 67.25, 67.26, 67.27, and 67.34 for failure to provide records, to keep withholding to a minimum, to justify withholding and untimely response.

Speakers: Dr. Wayne Lanier, Complainant: Their request for documents related to the policies, procedures and instructions for the backup and retrieval of electronic records in possession of the DA established that GRM Archives had a contract with the DA for maintenance of paper records, They still have no documents that reflect on the electronic records in the event of disaster or other loss. Complainant that ADA Bogott, who has since retired informed them that GRM handled backup and recovery. He charged that the DA, through ADA Henderson obstructed all their efforts to obtain the information they requested. The Ordinance requires the DA to preserve records in a businesslike manner. If the DA cannot provide the records we request that she create and authorize written instructions to GRM regarding the safeguarding of electronic records as required by the Ordinance.

Allen Grossman: This was a simple request that was sent out to nine department heads. This was in April. There was no response other than to inform Dr. Lanier of the contract with GRM. I wrote him a letter in May, to which there was no response, so I filed my own IDR request in June there was no response at all until the Complaint hearing in July, when we were informed that Bogott had retired and ADA Henderson would be handling public information

requests. He reported on August 17th that they had no responsive records. There appears to be no system for the storage, backup and retrieval of electronic records. I wrote back to Henderson that Bogott had informed them GRM was handling the records in question. We requested (IDR) any agreement or instructions with GRM regarding the question.

Paul Henderson, Assistant District Attorney, District Attorney's Office: Responded to the complaint that we have a purchase order with GRM only in the contract that is in the possession of the Controller. There are no specific records responsive to the request. The contracts are voluminous, and were not a part of the original request.

Rebuttal-Allen Grossman: We did not ask for a contract, we asked for specific documents. We got the single sentence reply from Bogott, that "we do not do that, GRM Archives handles all these documents under an agreement with General Services and GRM." We were misinformed that electronic records were covered in that agreement, but they are not, only paper records. In my last letter to Henderson, I wrote that the DA must be backing up electronic records somewhere, are they on a tape, a disk? Are they then put in a box and sent over to GRM? We cannot get an answer to this basic question.

Public Comment: Kimo Crossman: Noted Dr. Lanier's survey of nine departments elicited very adequate responses from most departments, but the DA's was the least responsive. It appears there are no policies in place for this requirement.

Member Pilpel: Does the Department stand by Bogott's letter, or has there been a reexamination of the policy since his departure?

Paul Henderson: I wanted to clarify that the GRM contract includes electronic records as well. There are no specific records, the terms of the contract include electronic files and are on those terms are on file with the Controller.

Member Chu: Mr. Henderson do you back up your own files? Do you know that the network is backing up files on your computer? How does that happen, and when does it happen. Is there a written direction to do that? I can't believe that lawyers would not have a system, with documentation that specifies the process.

Paul Henderson: No, I don't back up my files, GRM does that. We have an IT director that monitors that process. Until a year ago, not all of us had computers.

Sandip Dital: (A law clerk with the DA's Office) We have a contract with GRM that stipulates when and how all backups take place for electronic matters, how we will transmit our data to them, the schedule and terms of the process. Example – two days ago a computer crashed, we would contact GRM, they

would go into their backup of two days ago and restart our computer. We do not have a policy to internally access that data. Our purchase orders with GRM contain all those policy matters.

Member Chu: I can understand that that would be true, but for the future, we would expect better documentation.

Member Wolfe: Has anyone given an orientation to the staff about these procedures?

Paul Henderson: No.

Member Wolfe: Is there a disaster policy specific to what happens to electronic files?

Paul Henderson: No. There is a disaster plan, but it doesn't specifically allude to electronic file backup.

Member Williams: Have you ever personally received any sunshine training?

Paul Henderson: No, it has been trial by fire.

Member Sheppard: The world is often less rational than we assume it is, and the things a rational person would expect to be in place often are not. Thank you member Williams for pointing out that this is not an inquisition, but an investigation into the record keeping policies of the DA's office.

Vice Chair Craven: Made the motion to find violation.

Member Chu: Asked for the amendment regarding sunshine training.

Allan Grossman: (Responding to a question from Member Cauthen) What we are complaining about is the failure to respond, I've seen this contract, and there is no reference to electronic records anywhere in that contract. I've read it, I've read all eight amendments to it, there are no references to electronic records backup, storage or retrieval in any of it. It deals with paper records.

Member Sheppard: When a problem comes up with a department like this, can they get instruction from the Sunshine Task Force on how to comply?

Chair Comstock: Yes, Mr. Darby attempts to mediate matters before they come to us to try and get both sides together. When that doesn't happen, they come before us.

Motion finding the District Attorney's Office in violation of Sections 67.21 and 67.27 of the Sunshine Ordinance for failure to provide a timely response. The Task Force is concerned by the apparent lack of policies regarding backup and storage of electronic information and would hope that the District Attorney and her office would develop those policies and train employees on the methods by which public records should be kept and maintained. (Craven / Cauthen)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Wolfe, Goldman,

Williams

Absent: Chan

7. 07055 Public Hearing, complaint filed by Kimo Crossman against the District Attorney for alleged violation of Sunshine Ordinance §67.21 for failure to provide requested records.

Speakers: Kimo Crossman, Complainant: Asked for information about information under 67.21(c). He was requesting to know about the existence, quantity and form of the records pertaining to the structure and maintenance of the DA's website. He was provided one record, but no summary statement. When he asked for the seven-day response, he was referred to the index of records.

Paul Henderson, Assistant District Attorney: Responded that the complaint was not clear; he didn't know what documents Mr. Crossman needed. He informed Mr. Crossman that there were no records specifically about the website, and referred him to the index of records, which has an extensive list of records maintained by the department on August 15th.

Rebuttal-Kimo Crossman: I asked for an accounting of all the information they have about the website. Mr. Bogott responded with a one-page document about the website. He did not give me the quantity, form or existence of the records I was seeking. I complained and got no response. Mr. Henderson directed me to the City's index. Departments have a duty to assist requestors. He could have told me the record I had was the only record that exists, he didn't.

Public Comment: Sylvia Johnson: Commented on the control of information.

Member Wolfe: Asked why the original complaint was not in the packet.

Member Cauthen: Mr. Crossman's request was clear, he asked whether there are any written directions or documents relating to procedure for updating the website. If there were no document the department should have been forthcoming about that.

Paul Henderson: We were confused because we thought Bogott had dealt with that request.

Member Chu: Mr. Crossman asked for a list of documents, he got a single document and that is the violation. He should have gotten that document's name on a piece of paper, not the document itself?

Vice Chair Craven: He should have gotten a list of documents. It should have stated the number of documents and the other requirements of 67.21(c). The written statement should have stated that there was only one document, so that the requester wasn't left guessing.

Member Chu: Concerned that we are splitting hairs.

Member Sheppard: If the only document that is available is produced, isn't that better than a description of the document? I'm concerned that we can't determine with sufficient specificity that documents have been properly requested in order to determine that there is a violation.

Motion finding the District Attorney's Office in violation of Sections 67.21 and 67.21(c) of the Sunshine Ordinance (Craven / Cauthen)

Ayes: Craven, Knee, Cauthen, Comstock, Wolfe, Goldman, Williams

Nos.: Chu, Pilpel

Absent: Chan

8. 07056 Public Hearing, complaint filed by Myrna Lim against the Ethics Commission for alleged violation of Sunshine Ordinance §67.21 for failure to provide requested records.

Speakers: Myrna Lim, Complainant: She received a warning letter from the Ethics Commission stating that they had sufficient evidence to find her in violation of conflict of interest laws. When she requested the evidence, they refused to provide it.

John St. Croix, Executive Director, Ethics Commission: Responded that the Charter Section C3.699-13 (a), allows the Commission to keep investigatory files confidential "to the extent permitted by state law." This is a broad standard. CPRA protects investigatory files for law enforcement purposes. The Allowing the documents to be made public would allow a roadmap into the strategy of investigative procedures, which could guide people in how to break the law and suffer minimal consequences. They not only may be withheld, they must be.

Rebuttal – Myrna Lim: California Civil Procedure, Implied Waiver Fairness Exceptions. "an implied waiver of the privilege may occur where the party claiming the privilege displays a published communication directed at issue and its candid disclosure is essential for a fair adjudication of the issue." Kaiser Foundation Hospital v Superior Court. In any free society, an accused person has the right to see any evidence against them. The letter from the Ethics Commission accuses me of violating conflict of interest laws, which is a crime. This is a violation of civil procedure and my civil rights.

Public Comment: Sylvia Johnson commented on the matter.

Paul Graham: Felt that the Ethics Commission lost the exemption privilege when they wrote the letter.

Member Pilpel: (To Mr. St. Croix) The letter states that the Commission has sufficient evidence – does that refer to the five member Commission, or to the staff? Is there a written process for this kind of matter?

John St. Croix: that refers to the staff, the Commission would not have made that letter public, Ms. Lim made it public. The Commission created a process where, when we find minor violations of the law, in order to save resources, We have this warning process as a way of dismissing complaints that have merit. The process is part of the investigatory process document, which is a public document, available on the website.

Member Pilpel: Is Ms. Lim allowed to complain to the Commission?

John St. Croix: We encourage people who are unhappy with staff to complain to the Commission.

Member Wolfe: (To Mr. St. Croix) Why doesn't this letter say "confidential" on it?"

John St. Croix: I don't know if the envelope was stamped "confidential" it would be advisable to stamp the inside as well.

Vice Chair Craven: (To Mr. St. Croix) The law you refer to that allows exemption to disclosure is the CPRA? Are there any other laws?

Member Knee: (To Mr. St. Croix) Ms. Lim has asked for records in her own file, and you contend that they are protected? Who benefits from keeping these records confidential, other than the complainant?

John St. Croix: Yes, name of the person who complained and documents that reflect the investigatory process are not discloseable.

Vice Chair Craven: And the names of persons with whom the investigators spoke are confidential.

Member Knee: Those are redactable.

Member Williams: (To Mr. St. Croix) Is there some secret process that the Ethics Commission uses to investigate matters?

Member Cauthen: (To Mr. St. Croix) Ms. Lim states that the law you found her in violation of was not effective until after she was on the Planning Commission.

John St. Croix: That is not correct. The law was in effect, it was moved from one location in the codes to another, but it was the law.

Member Wolfe: Is the Ethics Commission a law enforcement agency? Is that the same as the Police or Sheriff's offices?

Member Sheppard: There is a question of law here; I don't see how this TF can make a judgment without an analysis of the law and cases that Ms. Lim cited here.

Vice Chair Craven: We don't have that information.

Member Sheppard: That seems critical to any determination. Until we have our

legal counsel's judgment about the issues we've heard here.

Member Pilpel: (To Mr. St. Croix) Is that term "law enforcement." Are you suggesting that any agency which enforces laws can and must protect their investigative files?

Vice Chair Craven: The provision that specifically deals with law enforcement information in the Sunshine Ordinance, on which we relied for the tax collector and the Sheriff's Department is 67.24(d) the pertinent parts:

"Records pertaining to any investigation, arrest or other law enforcement activity shall be disclosed to the public once the District Attorney or court (this is the problematic part) determines that a prosecution will not be sought against the subject involved, or once the statute of limitations for filing charges has expired, whichever occurs first. Notwithstanding the occurrence of any such event, individual items of information in the following categories may be segregated and withheld if, on the particular facts, the public interest in nondisclosure clearly and substantially outweighs the public interest in disclosure:

(3) The identity of a confidential source;

(4) Secret investigative techniques or procedures;

(5) Information whose disclosure would endanger law enforcement personnel; or

(6) Information whose disclosure would endanger the successful completion of an investigation where the prospect of enforcement proceedings is concrete and definite.

So the question before us is how does this section apply to the Ethics Commission. How do the exemptions claimed by the Ethics Commission match up to the requirements in the Ordinance? And is there some nebulous state law other than the CPRA on which Mr. St. Croix relies that allows these exemptions. So if we are talking about the CPRA, we get back to the Sunshine Ordinance, because CPRA does not trump the Ordinance.

John St. Croix: I think it would, the list includes, "the Attorney General, the Department of Justice, any state or local police agency or any investigatory or security files compiled by any other state or local agency for correctional, law enforcement or licensing purposes."

Vice Chair Craven: To the extent that the Sunshine Ordinance says something different than the CPRA, Sunshine trumps state law, to the extent that withholding is discretionary or more specific. The charter's ethics provision refers to "to the extent allowed by state law." So the question is what is the state law that deals with these kinds of records. I know that my law firm has secured investigatory files from the Department of Real Estate, arguing that 6754(f) does

not apply to closed investigations in the non-police law enforcement context. So while you rely on CPRA, which leaves us with an open question, as to whether CPRA applies to your agency, while the Sunshine Ordinance has greater disclosure requirements and trumps state law.

Member Pilpel: So does that make disclosure discretionary or is it prohibited?

John St. Croix: Nothing shall require disclosure of any of the following...

Member Pilpel: So it is discretionary, you can disclose it if you wish?

John St. Croix: But the charter says "to the maximum permissible" and after extensive discussion with the city attorney, we have concluded that there is not discretion to disclose this.

Member Pilpel: You must, by operation of these requirements *not* disclose?

John St. Croix: Correct.

Member Williams: The Police Department or other law enforcement offices allow someone who is being investigated to defend themselves or bring in some representation don't they? Was Ms. Lim given this right to dispute the charges?

John St. Croix: It is very common for us to investigate people without telling them they are under investigation.

Member Williams: Why?

John St. Croix: Because it allows them to cover their tracks.

Member Williams: Doesn't the Police Department give you the right?

John St. Croix: Not necessarily, law enforcement agencies investigate without knowledge. Only if charges are being brought, do these rights come into play.

Member Williams: So you are saying that these allegations are not charges? You say here that she was found "in violation."

John St. Croix: It says we have "sufficient evidence to find a violation." We did not charge her, but gave her a letter of warning, so that she would not repeat the violation.

Member Williams: To me that is still a charge.

Member Sheppard: Based on the dialogue that Commissioner Williams just pursued and laws cited here, I would want to see an articulation and application of the law. It is not clear to me that the exemptions Mr. St. Croix claims are exempted by various provisions are, in fact, not exempted by the Ordinance. I do not see how the Task Force can responsibly vote on a matter like this without an opinion by our counsel.

Vice Chair Craven: We make our decision based on the facts and the laws that we have before us or that are detailed in the hearing that define the law. We

need to determine that the exemption Mr. St. Croix is claiming meet the definition of the CPRA and the Sunshine Ordinance. The TF's legal counsel presents the laws that govern and then directs us to look at the facts and make our determination. He won't give us the ultimate answer.

Member Sheppard: From what source can the TF draw an authoritative legal opinion where a decision can only be made when we are going to apply an interpretation of the law?

Vice Chair Craven: If there are cases that show how a particular law has been applied, Mr. Llorente usually cites them. However, there are many situations where we don't have cases that have applied particular provisions of the law. This is what I was exploring with Mr. St. Croix – what are the other state laws that might apply in this arena. This is a semi-adjudicatory body, and often we have only the laws and the facts and we must decide whether the facts in a situation fit the laws.

Member Sheppard: Ms. Lim cited, in support of her position, which may or may not be distinguished with regard to exemptions claimed. How many members of the TF have the time to read, digest and draw conclusions from the cases cited? We would be operating blind as to whether we were making a valid conclusion. I would think that we need the advice of our counsel, who would digest the cases cited to assist us in reaching a conclusion, as any executive council would, based on an analysis of the law.

Vice Chair Craven: You make an excellent point. Both sides are given the opportunity to present the laws and points of authority in their complaint, so that Mr. Llorente can do that analysis. These cases were mentioned for the first time, this evening, and there wasn't even a real citation to the Code of Civil Procedure, it may have been 1040, the official information privilege, it may not, so that's one problem. We often have an issue where the City Attorney will prepare a memo and we'll get it during the hearing and it cites a lot of cases.

DCA Llorente: In my several years at this position, I've tried to guide the TF by presenting the laws and cases that exist without putting my imprint on the complaint before us. I did not do that in the beginning, I gave a jurisdictional letter that stated the laws as I knew them and attempted to focus the facts in the complaint. As the meetings began to go longer and longer, I decided to make memos to help focus the TF on the issues and laws that need to be considered. There are not a lot of cases that center around the issues of public records and meetings, but when there are, I definitely include those cases, or an analysis of those cases. With regard to the Code of Civil Procedure, I do not know if that citation applies to the facts of this case, we are talking about disclosure to third parties. It is frustrating that we often don't have the cases until the meeting takes place.

Member Sheppard: Thank you, I wasn't suggesting that counsel should tell us what to do, and I certainly wasn't aware that this is the first we have heard of these cases. In this case, where we are to determine if documents were privileged I would expect counsel to present us with a memo that explores the laws as they apply and says something to the effect that "while there may be doubts in this area, the best interpretation and most recent authorities would say that the Ethics Commission documents were or were not privileged" and then we would make our decision. We should have the benefit of the advice of counsel as to what would be the better view legally, not what we should do under the Ordinance.

Member Cauthen: Due to the confusion of the issues presented, I think something might be gained by having our attorney look at the laws and help us struggle with this. You give us excellent advice Madame Chair, but I'd like to continue this so we can get a little more background.

Member Wolfe: Seconded and I'd like to add that we get an analysis of the function of the Ethics Commission, specifically, what kind of body is it, is it law enforcement or some other authority?

Member Cauthen: I'd ask that both sides in this complaint provide us with the laws and the genesis of the Ethics Commission to establish that it is or is not a law enforcement agency.

Member Chu: What we are asking is that both sides must hire lawyers? It's a slope I don't want to head down. Complainants shouldn't have to get a lawyer in order to file a complaint.

Member Pilpel: requested Ms. Lim to provide case laws to the Task Force Administrator.

Motion to continue the item to the next meeting. (Cauthen/Wolfe)

Ayes: Craven, Knee, Cauthen, Chu, Pilpel, Wolfe, Chan, Goldman, Williams

Recused: Comstock

9. 07057 Public Hearing, complaint filed by Jeff Ente against Supervisor Aaron Peskin for alleged incomplete production of documents.

Speaker: Jeff Ente, Complainant: Supervisor cited several emails from aviary and ornithological experts from around the nation in during an official meeting of the Board of Supervisors on June 4th in support of his legislation to prevent citizens from feeding red-crested parakeets, yet the Supervisor only provided one of those emails in response to a Sunshine request. Through his own efforts he found an additional email, but both were from Northern California. He has yet to see the "dozens of emails from around the country." In addition, Supervisor Dufty said he was swayed by several emails from unsolicited experts in support

of the legislation. His aide told us he routinely discards emails once legislation is passed.

Vice Chair Craven: There is no representative from Supervisor Peskin, Linda, did a notice go out to the Supervisor to attend or send a representative to today's hearing?

Linda Wong, Administrative Assistant: Yes that notice went out to the Supervisor and to his aide.

Public Comment: Sylvia Johnson: Spoke about the need to have information we need to remain free.

Julie Zhu: Supervisor Peskin, in his statements to the press and Supervisor Duffy in an email to Jeff Ente claimed that there were dozens of emails from around the country in support of the ban on feeding the birds. I examined the file and found only seven letters in support of the legislation, and two of the letters were from persons who could be considered "avian experts" neither were "unsolicited," and both were from Northern California. Since June 8th I have received no response from Supervisors Peskin or Duffy. The supervisors stated that they based the need for the ban on feeding parakeets on these emails. If these emails were so important that this legislation was based on it, why would they destroy them?

Doug Comstock: Either the documents were destroyed, after the request for them on June 8th, or there were no such documents to begin with, I'm troubled by the either of those scenarios.

Member Cauthen: I was concerned that the Supervisor didn't send a representative here, or to the Complaint Committee even though I asked Ms. Wong to notify him.

Member Chu: Have we ever resolved the question of whether DTIS keeps backup of emails?

Vice Chair Craven: We don't know whether the Supervisor's offices are networked through DTIS or that emails are backed up. We have no testimony from them about which offices are backed up. And we don't have information that emails are included in the backup of the offices that they do connect to.

Member Chan: When you delete emails, they go to a location on your computer and you can delete but they are still there until you delete them again. So they may still be there on the server.

Member Wolfe: Even though you may instruct a system to delete an email, it still exists on a server. Emails that are here in City Hall are read off the server, it doesn't get downloaded, so those reside somewhere and those servers get backed up because, if a hard drive crashes, vital information must be retained.

These questions we constantly ask but DTIS refuses to answer, or sends a representative who doesn't have any knowledge of the question. If we knew the answer to that question, then there would be recourse.

Member Pilpel: I recall a memo from a City Attorney opinion, that stated that when legislation was settled, the members of the Board need no longer keep correspondence related to that legislation, To the extent that it is general correspondence, I don't see why emails should not be subject to a records retention policy especially where they are related to a legislative issue.

Member Williams: We get no respect from the Board of Supervisors, we are very serious about Sunshine, it's disheartening for us to sit here, trying to help people when departments send no one, or worse, someone who doesn't know the issue they have been summoned to represent.

Member Cauthen: The supervisors have been very good up to this point about attending meetings of the Task Force.

Member Wolfe: Regarding the back-up question, we don't really know who is in charge of technology in the City; we do know that when they send someone from DTIS, they don't know.

Motion finding Supervisor Aaron Peskin in violation of Sections 67.21, 67.29-1, 67.29-7 and 67.21e of the Sunshine Ordinance. A request shall be sent to Supervisor Aaron Peskin's Office, Director of Telecommunications and Information Services and the I.T. Manager for the Board of Supervisors to appear before the Compliance and Amendment Committee to speak on the issue of how or whether the Supervisor's email is backed-up and/or retrievable. (Chu / Goldman)

Ayes: Craven, Knee, Cauthen, Chu, Pilpel, Wolfe, Chan, Goldman, Williams

Recused: Comstock

10. 07059 Public Hearing, complaint filed by Paul Graham against the San Francisco Fire Department for alleged failure to use the redaction process to provide comprehensible records.

Speakers: Paul Graham, Complainant:: We need records of what revenue the Fire Department received for services they provide. Because these are taxpayer dollars, the public deserves the right to this information; they can't hide behind the HIPAA laws, considering recent court decisions. How can we determine what our losses are if there is no information available. We need to know how much it costs to provide services, and how much are we recovering for it?

Sylvia Johnson: Speaking in support discussed the need for people to know what is going on.

Pete Howes, Assistant Deputy Chief, Division of Emergency Medical Services,

Fire Department: Explained that the department must be careful about disclosing information, a requirement of the Health Insurance Portability and Accountability Act (HIPAA). We provided records regarding Tunnel Center, the requested address 1359 Pine St. from January '06 to May '07 as well as an ambulance billing six-month summary. They were provided in bulk, and also a breakdown of costs and money received, were provided in the table. We can provide someone to walk Mr. Graham through these records if needed. Confidentiality and anonymity of the patients must be maintained.

Rebuttal, Paul Graham: I never got the document he talked about, and I asked for further explanation or interpretation of what the figures refer to and none was provided, nor could a CPA I showed it to understand it.

Member Pilpel: (To Pete Howe) The August 17th memo suggests that you can't release certain information because it might be reverse engineered to provide information that is protected by HIPAA? The budget of the Fire Department is a public record, for example, and can be released because it is a highly aggregated figure that couldn't be extrapolated to any individual?

Pete Howe: Yes.

Member Pilpel: So then you could aggregate data for incidents that occur from 6PM to 9PM or East side v. West side or for each fire station for example, without breaching HIPAA regulations?

Pete Howe: Yes, if our task were to create a document, we would do that.

Member Pilpel: But as to a specific address the department's position is that it violates HIPAA because it could refer to a specific individual's privacy rights?

Pete Howe: Yes. Those figures are provided by zip code.

Member Pilpel: You are willing to have someone sit down with Mr. Graham and explain the various columns and the meaning of each entry?

Pete Howe: Yes. We will have some knowledgeable person to act as liaison to help him.

Member Wolfe:(To Mr. Graham) What do you still need?

Mr. Graham: I sent an email on the 16th of July asking for that very assistance, and none has been provided to date. I need information in an accounting format that I can use to determine how much money the taxpayers are losing. I do not want anyone's name or diagnosis.

Member Wolfe: Can you explain the redactions on the documents you provided? It looks like it is related to charges or call type, but there are no names, so you can't tell who belongs to which charge? You are providing the document, so why couldn't you provide more detail? How would that violate

HIPAA?

Pete Howe: We protect the information conservatively.

Vice Chair Craven: The call sheet at represents approximately how many residents there are at 1359 Pine St?

Pete Howe: I only know that it is a five story convalescent home. Most likely more than a hundred residents.

Vice Chair Craven: It says here that the department is "unable to extract the request because it does not designed to run such a query." I hear that all the time in responses from the Federal government. Within the Fire Department what databases have information about emergency calls? Are the amounts billed, whether the charges were paid, etc included in any of those databases? So you have the ability, as this printout shows, to segregate by address and indicate a call time, billing, etc. So you can pull out non-protected information and include it in an Excel spreadsheet to satisfy Mr. Graham's request. HIPAA is a complex legislation, and I know that you have to be careful, but I don't see that this data request could not be disclosed. When dealing with an aggregate group that is this large, it would not be possible to identify certain residents, nor the specific medical treatment that was received. I think it should be produced.

Member Pilpel: You send out response trucks to incidents, are all of those billed, or some items only? No free ride to the hospital?

Pete Howe: Yes.

Member Pilpel: Does each charge relate to an incident # or a call?

Pete Howe: Yes.

Member Pilpel: I'm not sure that the costs of an incident are protected by HIPAA. And if they are all related to one address, I'm thinking that is aggregate information related to a multi-patient facility, that is not related to an individual, and doesn't violate individual privacy.

Member Chu: Is database report a public record? Do they have to create a report that doesn't exist?

Vice Chair Craven: Yes. With electronic records, you are required to create a new document that is one of the exceptions if it is necessary to prevent disclosure of otherwise exempt information.

Member Wolfe: Are you looking for the raw numbers, which refers to an address?

Member Knee: Cost per incident, billing per incident, amount of money received per incident. Why hasn't that information been provided?

Chair Comstock: Mr. Howe, are citizens billed directly for these services?

Looking at 67.29-7(c), it is an entity that demands funds or fees from citizens.

Public Comment: None

Motion finding the San Francisco Fire Department in violation of Sections 67.29-7c and 67.21 of the Sunshine Ordinance. (Comstock / Craven)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Wolfe, Chan, Goldman, Williams

No: Pilpel

11.

Report: Compliance and Amendments Committee: meeting of August 8, 2007.

Member Knee: Made the report and announced that the next CAC meeting has been moved to September 10, 2007.

Chair Comstock: requested to have a discussion on the title and status of the Sunshine Ordinance Task Force at the next Full Task Force meeting.

Member Wolfe: Stated that he will be out of town on September 10, 2007.

Member Pilpel: Requested to add a hearing regarding affirmative outreach to the next full Task Force meeting agenda. Member Craven requested the analysis written by Deputy City Attorney Llorente to be included in the packet.

Public Comment: None

12.

Administrator's Report.

The Administrator submitted his report.

Public Comment: None.

13.

Public comment for items not listed on the agenda. Public comment to be held at 5:00 p.m., or as soon thereafter as possible.

Speakers: Allen Grossman said that he was bothered by Ex-officio Sheppard's statement as an admirer of the Mayor because he has been having difficulties obtaining information from the Mayor's Office.

Ex-officio Sheppard replied by saying that he was disclosing his admiration for the Mayor but his oath and his commitment is to the Task Force and its mission.

Member Williams: Said she felt uncomfortable with Ex-officio Sheppard's statement.

Kimo Crossman urged those who are admirers of the Mayor to ask the Mayor and Nathan Ballard to respond to two misconduct proceedings that are currently before the Ethics Commission.

Silvia Johnson: Spoke of various matters.

Dr. Anita Grier, President of the Board of Trustee, City College of San

Francisco: Said that the CCSF is moving toward implementing the concepts of

- the Sunshine Ordinance and wanted to announce that these items would be on the agenda for the next meeting of the Trustees, and subsequently as noticed.
14. Announcements, questions, and future agenda items from the Task Force.
- Chair Comstock: Announced that the Committee on Sunshine at City College had passed a major hurdle with the adoption, for review, of the public records portion, and that the public meeting portion was currently being undertaken.
- Member Sheppard: Expressed gratitude for the cordial welcome from the members of the Task Force.
- Member Pilpel: Stated that he, along with Members Goldman and Cauthen, met and greeted the Clerk of the Board. He also announced that former Task Force Member David Parker has been involved with the Sunshine Reform Task Force in the City of San Jose.
- DCA Llorente: Asked that we commend Vice-Chair Craven the attorney for the real party of interest in *Contra Costa Newspapers Inc v. City of Oakland*. The Supreme Court ruled 7-0 in favor of disclosure of non-police officer salaries. It also carves a small exemption for officer's working in undercover or dangerous positions where release of names may endanger them, but otherwise rules that police salaries can be disclosed. One justice dissented on the issue of releasing police data. (Full story: <http://cprareq.blogspot.com/2007/08/contra-costa-newspapers-inc-v-city-of.html>)
- Vice Chair Craven: Carl Olson was the lead attorney in the matter.
- Group: Applause and congratulations.
- Public Comment: None

Adjournment The meeting was adjourned at 9:17 p.m.

This meeting has been audio recorded and is on file in the Office of the Sunshine Ordinance Task Force.

* Indicates a lost portion of the discussion when the tape is changed.

Sunshine Ordinance Task Force



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-7724
Fax No. 554-7854
TDD/TTY No. 544-5227

<http://www.sfgov.org/sunshine/>

**SUNSHINE ORDINANCE TASK FORCE
AGENDA**

Tuesday, September 25, 2007
4:00 p.m., City Hall, Room 408

DOCUMENTS DEPT.

SEP 20 2007

SAN FRANCISCO
PUBLIC LIBRARY

Task Force Members

Seat 1 Erica Craven (Vice Chair)
Seat 2 Richard Knee
Seat 3 Sue Cauthen
Seat 4 Vacant
Seat 5 Kristin Chu
Seat 6 Doug Comstock (Chair)
Seat 7 David Pilpel

Seat 8 Bruce Wolfe
Seat 9 Hanley Chan
Seat 10 Nick Goldman
Seat 11 Marjorie Ann Williams
Ex-officio Angela Calvillo
Ex-officio Harrison Sheppard

Note: Each item on the Agenda may include minutes, department or agency letters and reports; Task Force reports; and public correspondence. These items will be available for review at City Hall, Sunshine Ordinance Task Force, Room 244.

Call to Order; Roll Call; Agenda Changes

1. a. Approval of minutes of July 24, 2007. (action item) (5 min) (attachment)
b. Approval of minutes of August 28, 2007. (action item) (5 min) (attachment)
2. Discussion re: 071051_Charter Amendment - Minimum qualifications for members of City bodies that oversee and administer election, campaign finance, lobbying, conflict of interest, open meeting and public records, sponsored by Supervisor Alioto-Pier. (discussion and possible action) (15 min) (attachment)
3. Report from the Complaint Committee: Meeting as a committee of the whole. (Sue Cauthen)
 - a. 07061 Determination of jurisdiction of complaint filed by Peter Warfield, for the Library Users Association, against the San Francisco Library for alleged inadequate posting and maintenance on the website of information about donations to the library. (action item) (15 min) (attachment)
 - b. 07062 Determination of jurisdiction of complaint filed Peter Warfield, for the Library Users Association, against the San Francisco Library for alleged inadequate response to an Immediate Disclosure Request of August 9, 2007. (action item) (15 min) (attachment)

4. 07038, 07043 & 07044 Continued: Public Hearing, complaint filed by Anonymous Person against the Entertainment Commission for alleged failure to provide requested records and to release information. (action item) (30 min) (attachment)
5. 07056 Continued: Public Hearing, complaint filed by Myrna Lim against the Ethics Commission for alleged violation of Sunshine Ordinance §67.21 for failure to provide requested records. (action item) (30 min) (attachment)
6. 07061 Public Hearing, complaint filed by Peter Warfield, for the Library Users Association, against the San Francisco Library for alleged inadequate posting and maintenance on the website of information about donations to the library. (action item) (30 min) (attachment item 3a)
7. 07062 Public Hearing, complaint filed by Peter Warfield, for the Library Users Association, against the San Francisco Library for alleged inadequate response to an Immediate Disclosure Request of August 9, 2007. (action item) (30 min) (attachment item 3b)
8. Report: Compliance and Amendments Committee: meeting of September 10, 2007. (Richard Knee). (discussion and possible action) (10 min) (attachment)
9. 07031 Continued: Progress report regarding steps to prevent loss of data: Order of Determination of Patrick Monette-Shaw v. Department of Public Health. (discussion and possible action item) (10 min) (attachment)
10. Discussion to consider changing the name of the Sunshine Ordinance Task Force. (discussion and possible action item) (attachment)
11. Possible amendments to Sections 67.13 to 67.18 of the Sunshine Ordinance and subsequent sections as time permits. (discussion and possible action item) (attachment)
(a.)Sec 67.13 Barriers to Attendance Prohibited.
(b.)Sec 67.14 Tape Recording, Filming and Still Photography.
(c.)Sec 67.15 Public Testimony.
(d.)Sec 67.16 Minutes
(e.)Sec 67.17 Public Comment by Members of Policy Bodies.
(f.) Sec 67.18 Supervisor of Public Forums
12. Discussion re: the Task Force's draft 2006 Annual Report and memo of Member Harrison Sheppard. (discussion and possible action) (10 minutes) (attachment)
13. Administrator's Report. (discussion) (5 minutes) (attachment)
14. Public comment for items not listed on the agenda. Public comment to be held at 5:00 p.m., or as soon thereafter as possible. (no action item) (12 min)
15. Announcements, questions, and future agenda items from the Task Force. (no action item) (5 min) (no attachment)

Adjournment

Next Meeting October 23, 2007

THE AGENDA PACKET IS AVAILABLE FOR REVIEW MONDAY THROUGH FRIDAY AT CITY HALL,
ROOM 244

SUNSHINE ORDINANCE TASK FORCE HEARING PROCEDURES

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations. Any person speaking during a public comment period may supply a brief written summary of their comments, which shall, if no more than 150 words, be included in the minutes. (Section 67.16)

Each member of the public who is unable to attend the public meeting or hearing may submit to the City, by the time the proceeding begins, written comments regarding the subject of the meeting or hearing; these comments will be made a part of the official public record. (Section 67.7-1 (c))

- | | |
|--|----------------------|
| 1. Complainant presents his/her facts and evidence | 5 minutes |
| Other parties present facts and evidence | Up to 3 minutes each |
| 2. City responds | 5 minutes |
| Other parties of City respond | Up to 3 minutes each |

Above total speaking time for Complainant and City to be the same

- | | |
|---|----------------------|
| 3. Complainant presents rebuttal | 3 minutes |
| 4. Public comment
(Excluding Complainant & City response, witnesses) | Up to 3 minutes each |
| 5. Matter is with the Task Force for discussion and deliberation | |
| 6. Vote by Task Force | |

Note: Time must be adhered to, if a speaker is interrupted by questions, the interruption does not count against his/her time.

Disability Access: The hearing room is wheelchair accessible.

Chemical-Based Products: In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals.

Cell phones, pagers and similar sound-producing electronic devices: The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decision in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact Frank Darby by mail to Administrator, Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102-4689; by phone at 415 554 7724; by fax at 415 554 7854; or by email at sotf@sfgov.org.

Citizens interested in obtaining a free copy of the Sunshine Ordinance can request a copy from Mr. Darby or by printing Chapter 67 of the San Francisco Administrative Code on the Internet, http://www.sfgov.org/site/sunshine_page.asp?id=34495

Lobbyist Registration & Reporting Requirements

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance (SF Campaign & Governmental Conduct Code Sec. 2.100) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415 581-2300; fax (415 581-2317); website: sfgov.org/ethics.

September 25, 2007

TO: Sunshine Ordinance Task Force
FM: Sue Cauthen for the Complaint Committee
RE: Information for Orders of Determination

We are providing a list of relevant Sunshine Ordinance code sections only (except for INSERT). Any records the Task Force orders produced should be provided in 5 days.

NB: Due to time constraints, this document was written before issuance of the city attorney's informational letter.

KEY: CAO: City Attorney's Office; COB: Clerk of Board of Supervisors; CPRA: :California Public Records Act; IDR: Immediate Disclosure Request; LUA: Library Users Assn.; SO: Sunshine Ordinance; TF: Task Force; 12L: Section 12L of the Administrative Code

I. (07038, 07043, 07045) ANONYMOUS v. ENTERTAINMENT COMMISSION

These three items were consolidated at the Complaint Committee.

SO: 67.21 produce documents; 67.25 Immediate Disclosure Request

II. (07056) MYRNA LIM v. ETHICS COMMISSION

SO: 67.21 provide records

CPRA: 6254k (exempt material); 6254c (personal privacy)

SF CHARTER: C3.669-13 (Ethics Cmsn. Investigations)

TEXT ONLY:



PRINT:



TEXT SIZE:



DOCUMENTS DEPT.

JUN - 9 2008

SAN FRANCISCO
PUBLIC LIBRARY

September 25, 2007

SUNSHINE ORDINANCE TASK FORCE
MINUTES

Tuesday, September 25, 2007

4:00 p.m., City Hall, Room 408

Task Force Members

Seat 1	Erica Craven (Vice Chair)	Seat 8	Bruce Wolfe
Seat 2	Richard Knee	Seat 9	Hanley Chan
Seat 3	Sue Cauthen	Seat 10	Nick Goldman
Seat 4	Vacant	Seat 11	Marjorie Ann Williams
Seat 5	Kristin Chu		
Seat 6	Doug Comstock (Chair)	Ex-officio	Angela Calvillo
Seat 7	David Pilpel	Ex-officio	Harrison Sheppard

Call to Order The meeting called to order at: 4:12 P.M.**Roll Call Present:** Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Wolfe (arrived at 4:17; out at 8:36), Chan (out at 7:30), Goldman, Williams, Sheppard (out at 8:40)**Agenda Changes:** Item #9 moved to third spot on list; Item #6 was heard before Item #5.**Deputy City Attorney:** Ernie Llorente**Clerk** Chris Rustom**Administrator:** Frank Darby

1. a. Approval of minutes of July 24, 2007.
Public Comment: None
Motion to approve the July 24, 2007 minutes. (Pilpel / Chan)
Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Wolfe, Chan, Goldman, Williams
Approval of minutes of August 28, 2007.
The chair requested that the minutes of July 24, 2007 be continued to the next meeting.
Motion to continue the August 28, 2007 minutes. Without objection.
- b. Public comment: Peter Warfield said he was impressed with the quality of the minutes, but it had to be uniform throughout the document.
Member Pilpel inquired about a letter Chair Comstock sent to Mayor Newsom thanking him for the appointment of Member Sheppard. Mr. Comstock said the letter was sent. Mr. Pilpel requested that the letter be included in the next packet.

2. Discussion re: 071051_Charter Amendment - Minimum qualifications for members of City bodies that oversee and administer election, campaign finance, lobbying, conflict of interest, open meeting and public records, sponsored by Supervisor Alioto-Pier.
- Speakers: none
- Member Pipel proposed sending a letter to the Board of Supervisors expressing the Task Force's position on the proposed Charter Amendment. Member Knee added the letter should also highlight that the Charter should promote public participation and not otherwise. Member Wolfe questioned if subtext 4 of the amendment was constitutional.
- Member Sheppard said the requirements would better qualify a candidate to serve the city but doubted its constitutionality.
- Motion to send letter. (Comcast / Cauthen)
- Public Comment: Patrick Monett-Shaw urged the Task Force to educate the public before Nov. 6 why the measure was unnecessary.
- Kimo Crossman wanted the Task Force to ask for Mr. Ernie Llorente's opinion on its constitutionality and include it with the letter.
- Peter Warfield referred to the Sunshine Ordinance and reminded it of its mandate.
- Member Harrison said that the letter should at least indicate that the Task Force has expressed doubts about the constitutionality of this measure.
- Motion to send letter. Same house, same call
3. Report from the Complaint Committee: Meeting as a committee of the whole.
- Member Cauthen made the report.
- a.07061 Determination of jurisdiction of complaint filed by Peter Warfield, for the Library Users Association, against the San Francisco Library for alleged inadequate posting and maintenance on the website of information about donations to the library.
- Speakers: Peter Warfield, Complainant, referred to pages 48,49, 88 and 89 of the packet to indicate where the library had violated Sunshine Ordinance 67.29 (2) and 67.29 (6).
- Sue Blackman, Respondent, said the library does not contest jurisdiction.
- Public Comment: None
- Motion to accept jurisdiction. (Pipel / Chu)
- Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pipel, Wolfe, Chan, Goldman, Williams
- Absent: Comstock
- b.07062 Determination of jurisdiction of complaint filed Peter Warfield, for the Library Users Association, against the San Francisco Library for alleged inadequate response to an Immediate Disclosure Request of August 9, 2007.
- Speakers: Peter Warfield, Complainant, referred to pages 138 and a139 of the packet and indicated how the library had violated the Sunshine Ordinance.
- Sue Blackman, Respondent, said the library does not contest jurisdiction.
- Public Comment: None
- Member Pipel had a question for Mr. Warfield and asked him to approach the speaker's table when Chair Craven, referring to the Rule of the Chair, denied the request.
- Motion to override. (Pipel / Cauthen)
- Motion to accept jurisdiction. (Goldman / Craven)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Wolfe, Chan, Goldman, Williams

Noes: Chu, Goldman

Absent: Comstock

Member Pilpel wanted to know why the complainant's document was dated the 27th whereas the footer showed the 13th. Mr Warfield said the date in the footer was a mistake.

Motion to accept jurisdiction. (Goldman / Craven)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Wolfe, Chan, Goldman, Williams

Absent: Comstock

4. 07038, 07043 & 07044 Continued: Public Hearing, complaint filed by Anonymous Person against the Entertainment Commission for alleged failure to provide requested records and to release information. (action item) (30 min) (attachment)

Bob Davis, Respondent, was not able to attend because of a family emergency.

Motion to continue with request for Respondent to provide written response before next meeting. (Cauthen / Wolfe)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Wolfe, Chan, Goldman, Williams

5. 07056 Continued: Public Hearing, complaint filed by Myrna Lim against the Ethics Commission for alleged violation of Sunshine Ordinance §67.21 for failure to provide requested records. (action item) (30 min) (attachment)

Doug Comstock recused himself.

Speakers: Myrna Lim, Complainant, said she was informed by the Ethics Commission that she was in technical violation of a statute but was not given the opportunity to review the document that was the basis of the finding because it was marked confidential. She questioned the commission's stand on confidentiality because she was given a letter that was marked confidential. The Task Force was reminded that its members could be under investigation by the Ethics Commission and not know about it.

John St. Croix, Respondent, said the Charter dictates that the Ethics Commission follows State laws on confidentiality. The Sunshine Ordinance, he said, may say some State laws are not applicable, but the commission has to abide by the Charter.

Ms. Lim in rebuttal, said the commission has been investigating her for three years without a finding for probable cause, which means that the massive information collected was wrongfully obtained. The letter, she said, mentioned sufficient evidence to prove the technical violation. She wants to see the evidence.

Public Comment: Alan Grossman said looking at the commission's letter, he believes that numerous documents within Ms. Lim's file are not exempt. He said the commission has to review all documents, apply all the exemptions and then provide the redacted version.

Kimo Crossman said there were questionable exemptions related to the Sunshine Ordinance.

Member Sheppard asked Mr. St. Croix how Ms. Lim could be in violation of a statute that did not exist during the time the violation was alleged to have occurred. Mr. St. Croix responded that the statute existed under a different statute and that he will provide a copy to the Task Force.

Deputy City Attorney Ernie Llorente said the information that was requested was not exempt and should be released especially if the file is closed.

Motion to continue with direction to DCA Llorente to please provide a detailed analysis regarding the status of the Ethics Commission and its ability to withhold or not withhold records

under State law and/or the Charter. (Wolfe / Chu)

Ayes: Knee, Cauthen, Chu, Comstock, Wolfe, Chan, Williams

Noes: Craven, Pilpel, Goldman

Recused: Comstock

Chair Craven announces a recess at 6:34. The Task Force is back in session at 6:44.

6. 07061

Public Hearing, complaint filed by Peter Warfield, for the Library Users Association, against the San Francisco Library for alleged inadequate posting and maintenance on the website of information about donations to the library.

On consolidation:

Speakers: Peter Warfield, Complainant, said the first complaint is about what was on the website versus what should be, and the site's maintenance. The second complaint deals with information requests and its aftermath. They cover different parts of the ordinance and overlap in some cases.

Sue Blackman, Respondent, said the complaints are duplicative and should be consolidated.

Motion to consolidated with complaint #07062 (Cauthen / Craven)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Williams

Noes: Pilpel, Wolfe, Goldman

Excused: Chan

Speakers: Peter Warfield, Complainant, said the website did not have full disclosure as required by the Ordinance, a current major donor's name was dropped after being listed for three years and the library has to post and provide money or goods and services that the City allows to be collected. The library also did not provide information on outside funding and who managed the monies collected.

Alan Grossman said the library was redacting information voluntarily provided by donors. That information, he said, was about disclosure relevant to possible or questionable illegal activity. The designated custodians of public records claim, he added, was about a series of procedures that create several levels of obstacles.

Sue Blackman, Respondent, said that all information requested was provided. However, personal addresses, telephone numbers and e-mail addresses or donors were redacted from the forms. She acknowledge that the website was not updated in a timely manner, but now it is current; that the library does not post grants.

Mr. Warfield, in rebuttal, said that the library should be found in violation although they have take corrective measures.

Kimo Crossman said that the information on the donor forms or not confidential and donors have no expectation of privacy. He said that e-mail addresses can't be redacted, and urged that the library be found in violation.

Member Pilpel said that he doesn't agree with Mr. Crossman's statement, and is not certain whether the donor information is subject to the gift disclosure requirement.

Member Sheppard asked Mr. Crossman to clarify his statement regarding the right to redact. Mr. Crossman responded that he statement was clear.

Member Knee asked Ms. Blackman if it was possible adding an option on the donor forms allowing donors to determine whether to disclose or not disclose their personal information. Ms. Blackman said that the form can be revised to add the option.

Member Craven said that the only unresolved issues is the redaction of home addresses from

donor forms. Home addresses are something that can and should be disclosed.

Member Wolfe asked Ms. Blackman about the use of the word "gift" in her letter on page 116 of the packet. Ms. Blackman responded that the term gift was taken from the Good Government Guide

Member Craven said that the intent of Section 67.29-6 is to track gifts that go under the radar

Member Sheppard asked Ms. Blackman if her citing of CPRA in her letter was provided with advice from the City Attorney's office. Ms. Blackman said yes. Member Sheppard said that he can't see how the Task Force can find the Library in violation when they are following the advice of the City attorney. He said that the Task Force needs a higher argument to "trump" the City Attorney.

Member Cauthen said that the Good Government Guide is just a guide, but that the Sunshine Ordinance is law and supercedes the City Attorney.

Member Williams said that the City Attorney acts to protect the City, and that they are not god's or the law.

Member Knee said that the Task Force has an attorney to help them make a determination.

Member Sheppard said that for the Library to be charged with a violation for following the advice of the City Attorney poses a problem for all City departments.

Chair Comstock said that the voters gave the Task Force the responsibility to ensure compliance with the Ordinance; that they may or may not agree with the City Attorney. However, it is the Task Force's and not the City Attorney's job.

Member Cauthen said that the Ordinance is written for people who can read, and that in addition to State the Sunshine Ordinance was written by the people and for the people.

Member Craven moved to find a violation of Sections 67.29-2, 67.29-6, and 67.21

Member Wolfe said that he has an issue with the advice provided by the City Attorney, and that the Task Force can determine if the CA provided proper council.

Member Pilpel said that he will not vote in favor of a violation.

Member Cauthen proposed an amendment to the motion that acknowledges the corrective measures taken by the library.

Chair Comstock asked Mr. Warfield if what he heard in the Members discussions and the proposed motion is what he is seeking? Mr. Warfield responded yes, but that grant information is still missing from the web. He said that the Task Force should not allow secrecy of donor information, and that the library wants to prevent the freedom of assembly. Mr. Warfield said that there is no difference between a gift and a grant, and that the Task Force is the only body available to prevent a dictatorship by the City Attorney. He urged the finding of a violation.

Member Cauthen disclosed her involvement with the library for many years and that she founded the Library CAC, which is an independent body that advises the BOS about the library. She said that she feels her knowledge of the library helps her to come out with a good conclusion, and that she can discuss the issue dispassionately.

Member Knee asked for the calling of the question.

Although the San Francisco Public Library has acknowledge and has taken corrective measures to correct most of the allegations the Task Force moves to find a violation of Sections 67.29-2, 67.29-6, and 67.21 for failure to promptly update the website, failure to adequately disclose, on the website, the monies that had been provided, and failure to provide requested records by not providing the home addresses of donors. (Craven / Knee)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Wolfe, Goldman, Williams

Noes: Pilpel

Excused: Chan

Member Pilpel asked if the Task Force's interpretation of Section 67.29-6 meant that if he were to purchase books from the Friends of the Public Library or some other entity like the Park Trust, that if aggregate value is more than \$100, the entity would be required to seek his personal contact information and report it? Member Craven said that the discussion on that matter has not been exhausted.

Member Cauthen said that she doesn't know if it's a donation if you receive value in return.

7. 07062 Public Hearing, complaint filed by Peter Warfield, for the Library Users Association, against the San Francisco Library for alleged inadequate response to an Immediate Disclosure Request of August 9, 2007.

Previously consolidated with complaint #07061

8. Report: Compliance and Amendments Committee: meeting of September 10, 2007.

Member Knee made the report.

He reported that the committee is working with 1) Supervisor Maxwell regarding adopting some reasonable steps to ensure that speakers, at committee meetings are treated equally, 2) the District Attorney regarding setting policy regarding retention of records and provision of public documents, and 3) that he will write a letter to Supervisor Peskin regarding the destruction of e-mails and the attempt to retrieve destroyed data.

Member Pilpel asked for a confirmation on the meeting date.

Member Knee said that the meeting is Wednesday, October 10, 2007.

Member Wolfe noted the need for a correction to a typo in the minutes on page 282, paragraph 3, regarding the use of the word options rather than opinion.

Chair Comstock said that the comments from Rohan Lane regarding the expenses to be incurred will be discussed in Section 67.14.

Speakers: Jeff Ente said that he is concerned that regarding his matter the Committee will miss something. He suggested that additional search criteria should be identified and in the letter to Supervisor Peskin such as red mass parakeet, foraging, and sunflower seed.

Member Craven said that she would defer that the Member Knee since he will be writing the letter.

Member Comstock said that he's also heard the term conures used.

Member Pilpel said that Mr. Bonds for the Fire Department contacted him about Mr. Graham's request, and he provided him with information to help further the Committee's requests.

Member Sheppard asked that the minutes of today's meeting on item #6 include the question raised by Member Pilpel. He said that misinterpretation and application of the Task Forces determination could cause the City millions of dollars in donations from donors who learned that by donating to various non-profit City projects that they would be required to provide their street address.

9. 07031 Continued: Progress report regarding steps to prevent loss of data: Order of Determination of Patrick Monette-Shaw v. Department of Public Health.

Speakers: Patrick Monette-Shaw, Complainant, requested the Task Force issue a new Order of Determination that indicates data should be saved on the Laguna Honda network server and not on an employee's drive where data could be lost once that person leaves employment. Network mapping, he said, should not be an issue.

Clerk Rustom notified the Task Force that a DPH email said representatives would not be present at the meeting as it had provided all the information and had made the efforts needed by the Order of Determination.

Public Comment: Peter Warfield, citing 67.21 (e) of the Sunshine Ordinance, urged members to insist that departments send representatives.

Kimo Crossman said the lack of attendance by officials is not new and has yet to see an IT official from certain departments explain its record archival and retrieval process.

Member Wolfe said it would help members if the IT persons came and described their methods to get a basic understanding of the process.

No action taken. Without objection.

10.

Discussion to consider changing the name of the Sunshine Ordinance Task Force.

Member Cauthen asked if member's heard about some type of "baggage" associated with the word commission?

Member Craven said that DCA Llorente had provided some information regarding the matter, and that changing the name to a commission would not alter the Task Force's appointment process or powers. That the powers and appointment of Members would be controlled by provisions of the ordinance. So there is no down side to making that change.

Member Cauthen said that she vaguely remembers hearing that be called a commission would limit what they could do.

Member Sheppard said that the term Task Force is misleading

Member Pilpel urged retaining the name Sunshine Ordinance as the first part of the name.

Member Wolfe said that it was time for the Ordinance to become a law.

Chair Comstock suggested that the name be changed to Sunshine Commission or Council, and that the Ordinance become a charter.

Member Knee suggested keeping the language, and said that becoming a charter would affect their appointment.

Member Williams said that the term Sunshine is well known, but more teeth and power is needed for the Task Force. She asked Member Sheppard to assist the Task Force with obtaining more authority and ensuring open government.

Member Sheppard said that he spent hours trying to make the Task Force as effective as possible to achieve what is asked for.

Member Goldman said that a title other than Task Force is needed because it refers to a temporary body and they are a permanent body. That he thought of the term Open Government, but don't mind keeping the name Sunshine Ordinance if members want if for sentimental reasons.

Speakers: None

Motion to change the name of the Sunshine Ordinance Task Force to Sunshine Commission. (Craven / Cauthen)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Wolfe, Goldman, Williams

Noes: Pilpel

Excused: Chan

11. Possible amendments to Sections 67.13 to 67.18 of the Sunshine Ordinance and subsequent sections as time permits.
- a. Sec 67.13 Barriers to Attendance Prohibited.
 - b. Sec 67.14 Tape Recording, Filming and Still Photography.
 - c. Sec 67.15 Public Testimony.
 - d. Sec 67.16 Minutes
 - e. Sec 67.17 Public Comment by Members of Policy Bodies.
 - f. Sec 67.18 Supervisor of Public Forums
- Member Wolfe informed members that he must leave at 8:30 PM.
- Member Chu informed members that she must leave at 9:15.
- Speakers: None
- Section 67.13 was discussed, and the Administrator recorded recommended amendments.
- Member Sheppard asked to be excused, due to the lateness of the hour and because he is not in the best of health, and asked that the discussion of his letter in item #12 be deferred to the next full Task Force meeting.
- Without objection.
- Member Sheppard suggested a discussion regarding the deadlines for submission of materials to give the Task Force time to review the packet.
- Motion to defer to the Compliance and Amendments Committee for discussion Sections 67.13 to 67.18. (Chu / Goldman)
- Ayes: Cauthen, Chu, Pilpel, Goldman, Williams, Comstock
- Noes: Craven, Knee
- Excused: Chan, Wolfe
12. Discussion re: the Task Force's draft 2006 Annual Report and memo of Member Harrison Sheppard.
- Speakers: None
- Member Pilpel asked Members to submit any suggestions to the Administrator
- Member Chu said that she has comments that she will send to the Administrator.
- Chair Comstock said that there need to be a report to the Board of Supervisors regarding the problems that the Task Force is having, such as e-mail retention, digital storage, etc.
- Member Pilpel suggested that a section be added regarding practical problems encountered, and that the information on Committees be reduced.
- Member Williams suggested that the Task Force requests a hearing before the Board.
- Chair Comstock urged member to read Member Sheppard's memorandum.
- Member Pilpel asked the Task Force to sever the annual report from Member Sheppard's letter so that they will be two separate items at next month's meeting.
- Without objection.
13. Administrator's Report.
- The Administrator made the report.
- Member Pilpel asked the Administrator if the complaint by Mr. Pitts was against an 12L organization. The Administrator responded yes.

Speakers: None

14.

Public comment for items not listed on the agenda. Public comment to be held at 5:00 p.m., or as soon thereafter as possible.

Speakers: Patrick Monett-Shaw, referring to testimony provided earlier for File No. 07031, wanted the Task Force to follow up and evaluate if DPH changed its records management and maintenance procedures.

Kimo Crossman said the wait-and-see approach taken on the Progress Report in the Patrick Monett-Shaw vs. DPH case was not acceptable, as it was the Task Force's responsibility to ensure the public's right to information.

Alan Grossman lamented that the Task Force had wasted several minutes on an agenda that belonged to a different committee; the public was at an disadvantage because departments file long and lengthy responses close to deadline giving them no time to counter respond; the author of a department's response should be identified; and that all parties before the Task Force be given an equal opportunity.

Ming Lee said equal time should be given to all parties otherwise it would be a waste of time.

Peter Warfield said when the Task Force questions a party and a response is received, the opposite party should be given equal time to ensure the information is correct.

Member Sheppard commented that he is an advocate for transparency in government and a supporter for identifying the source of documents. He also said he would like to discuss later in the evening the timeliness in the distribution of supporting documents for a hearing.

15.

Announcements, questions, and future agenda items from the Task Force.

Speakers: None

Adjournment

The meeting was adjourned at 8:52 p.m.

This meeting has been audio recorded and is on file in the Office of the Sunshine Ordinance Task Force.

Sunshine Ordinance Task Force



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-7724
Fax No. 554-7854
TDD/TTY No. 544-5227

<http://www.sfgov.org/sunshine/>

SUNSHINE ORDINANCE TASK FORCE

AGENDA

Tuesday, October 23, 2007
4:00 p.m., City Hall, Room 408

DOCUMENTS DEPT.

OCT 19 2007

SAN FRANCISCO
PUBLIC LIBRARY

Task Force Members

Seat 1 Erica Craven (Vice Chair)
Seat 2 Richard Knee
Seat 3 Sue Cauthen
Seat 4 Vacant
Seat 5 Kristin Chu
Seat 6 Doug Comstock (Chair)
Seat 7 David Pilpel

Seat 8 Bruce Wolfe
Seat 9 Hanley Chan
Seat 10 Nick Goldman
Seat 11 Marjorie Ann Williams

Ex-officio Angela Calvillo
Ex-officio Harrison Sheppard

Note: Each item on the Agenda may include minutes, department or agency letters and reports; Task Force reports; and public correspondence. These items will be available for review at City Hall, Sunshine Ordinance Task Force, Room 244.

Call to Order

Roll Call

Agenda Changes

1. a. Approval of minutes of August 28, 2007. (action item) (5 min) (attachment)
- b. Approval of minutes of September 25, 2007. (action item) (5 min) (attachment)
2. Discussion re: 071051_Charter Amendment - Minimum qualifications for members of City bodies that oversee and administer election, campaign finance, lobbying, conflict of interest, open meeting and public records, sponsored by Supervisor Alioto-Pier. (discussion and possible action) (15 min) (attachment)
3. Report from the Complaint Committee: Meeting as a committee of the whole. (Sue Cauthen)
- a. 07060 Determination of jurisdiction of complaint filed by Alex Clark against the Public Utilities Commission for alleged failure to provide requested records, failure to provide written justification for withholding of the records, and untimely response. (action item)

- b. 07063, 07064, and 07065 Determination of jurisdiction of complaint filed by Ray Hartz against the City Attorney for violation of Section 67.21 (c) of the Sunshine Ordinance for alleged failure to provide assistance with identifying and obtaining public information from the San Francisco Police Department, refusal to release requested information, and refusal to acknowledge the Department's responsibility to comply with the Sunshine Ordinance. (action item)
- c. 07067 Determination of jurisdiction of complaint filed by Jodi Watson against the Entertainment Commission for alleged failure to respond to an Immediate Disclosure request, and failure to provide requested records containing noise reports of Slim's nightclub from May through June 2007. (action item)
- d. 07068 Determination of jurisdiction of complaint filed by Maxine Doogan against the District Attorney for alleged failure to provide requested records. (action item)
- e. 07069 Determination of jurisdiction of complaint filed by Ray Hartz against the office of Supervisor Aaron Peskin for violation of Section 67.21 (c) of the Sunshine Ordinance for alleged failure to provide assistance. (action item)
- f. 07071 Determination of jurisdiction of complaint filed by Dee Modglin against the Mayor's Office of Housing for alleged incomplete and inaccurate release of information. (action item)
- g. 07072 Determination of jurisdiction of complaint filed by Randell Evans against the Redevelopment Agency and Mayor's WACAC for alleged incomplete minutes by not identifying public speakers or summarizing their comments, failure to provide the agenda and packet although identified on their mailing list, and interrupting a speaker during public comment without deducting the interruption from the speakers time. (action item)
- h. 07073 Determination of jurisdiction of complaint filed by Russell Albano against the Human Resources Department – Workers Compensation Division for alleged failure to respond to two public records requests, failure to provide records, and failure to provide justification for withholding. (action item)
- i. 07074 Determination of jurisdiction of complaint filed by Russell Albano against the Fire Department for alleged failure to respond in a timely manner, failure to provide the records requested, and failure to provide justification for withholding. (action item)
- 4. 07038, 07043 & 07044 Continued: Public Hearing, complaint filed by Anonymous Person against the Entertainment Commission for alleged failure to provide requested records and to release information. (action item) (30 min) (attachment)
- 5. 07056 Continued: Public Hearing, complaint filed by Myrna Lim against the Ethics Commission for alleged violation of Sunshine Ordinance §67.21 for failure to provide requested records. (action item) (30 min) (attachment)

6. 07060 Public Hearing, complaint filed by Alex Clark against the Public Utilities Commission for alleged failure to provide requested records, failure to provide written justification for withholding of the records, and untimely response. (action item) (30 min) (attachment)
7. 07063, 07064, and 07065 Public Hearing, complaint filed by Ray Hartz against the City Attorney for violation of Section 67.21 (c) of the Sunshine Ordinance for alleged failure to provide assistance with identifying and obtaining public information from the San Francisco Police Department, refusal to release requested information, and refusal to acknowledge the Department's responsibility to comply with the Sunshine Ordinance. (action item) (30 min) (attachment)
8. 07067 Public Hearing, complaint filed by Jodi Watson against the Entertainment Commission for alleged failure to respond to an Immediate Disclosure request, and failure to provide requested records containing noise reports of Slim's nightclub from May through June 2007. (action item) (30 min) (attachment)
9. 07068 Public Hearing, complaint filed by Maxine Doogan against the District Attorney for alleged failure to provide requested records. (action item) (30 min) (attachment)
10. 07069 Public Hearing, complaint filed by Ray Hartz against the office of Supervisor Aaron Peskin for violation of Section 67.21 (c) of the Sunshine Ordinance for alleged failure to provide assistance. (action item) (30 min) (attachment)
11. 07071 Public Hearing, complaint filed by Dee Modglin against the Mayor's Office of Housing for alleged incomplete and inaccurate release of information. (action item) (30 min) (attachment)
12. 07072 Public Hearing, complaint filed by Randell Evans against the Redevelopment Agency and Mayor's WACAC for alleged incomplete minutes by not identifying public speakers or summarizing their comments, failure to provide the agenda and packet although identified on their mailing list, and interrupting a speaker during public comment without deducting the interruption from the speakers time. (action item) (30 min) (attachment)
13. 07073 Public Hearing, complaint filed by Russell Albano against the Human Resources Department – Workers Compensation Division for alleged failure to respond to two public records requests, and failure to provide records. (action item) (30 min) (attachment)
14. 07074 Public Hearing, complaint filed by Russell Albano against the Fire Department for alleged failure to respond in a timely manner, failure to provide the records requested, and failure to provide justification for withholding. (action item) (30 min) (attachment)
15. Report: Compliance and Amendments Committee: meeting of October 10, 2007. (Richard Knee). (discussion and possible action) (10 min) (attachment)
16. Chair's Report. (discussion) (10 minutes) (no attachment)

17. Administrator's Report. (discussion) (5 minutes) (attachment)
18. Discussion re: the memo from Member Harrison Sheppard. (discussion and possible action) (15 minutes) (attachment)
19. Discussion re: the Task Force's draft 2006 Annual Report (discussion and possible action) (15 minutes) (attachment)
20. Public comment for items not listed on the agenda. Public comment shall be held at 5:00 p.m., or as soon thereafter as possible. (no action item) (12 min)
21. Announcements, questions, and future agenda items from the Task Force. (no action item) (5 min) (no attachment)

Adjournment

Next Meeting November 27, 2007

SUNSHINE ORDINANCE TASK FORCE HEARING PROCEDURES

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations. Any person speaking during a public comment period may supply a brief written summary of their comments, which shall, if no more than 150 words, be included in the minutes. (Section 67.16)

Each member of the public who is unable to attend the public meeting or hearing may submit to the City, by the time the proceeding begins, written comments regarding the subject of the meeting or hearing; these comments will be made a part of the official public record. (Section 67.7-1 (c))

- | | | |
|----|---|----------------------|
| 1. | Complainant presents his/her facts and evidence | 5 minutes |
| | Other parties present facts and evidence | Up to 3 minutes each |
| 2. | City responds | 5 minutes |
| | Other parties of City respond | Up to 3 minutes each |

Above total speaking time for Complainant and City to be the same

- | | | |
|----|--|----------------------|
| 3. | Complainant presents rebuttal | 3 minutes |
| 4. | Public comment
(Excluding Complainant & City response, witnesses) | Up to 3 minutes each |
| 5. | Matter is with the Task Force for discussion and deliberation | |
| 6. | Vote by Task Force | |

Note: Time must be adhered to, if a speaker is interrupted by questions, the interruption does not count against his/her time.

Disability Access: The hearing room is wheelchair accessible.

Chemical-Based Products: In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals.

Cell phones, pagers and similar sound-producing electronic devices: The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decision in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact Frank Darby by mail to Administrator, Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102-4689; by phone at 415 554 7724; by fax at 415 554 7854; or by email at soff@sfgov.org.

Citizens interested in obtaining a free copy of the Sunshine Ordinance can request a copy from Mr. Darby or by printing Chapter 67 of the San Francisco Administrative Code on the Internet, http://www.sfgov.org/site/sunshine_page.asp?id=34495

Lobbyist Registration & Reporting Requirements

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance (SF Campaign & Governmental Conduct Code Sec. 2.100) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415 581-2300; fax (415 581-2317); website: sfgov.org/ethics.

TEXT ONLY:



PRINT:



TEXT SIZE:



October 23, 2007

DOCUMENTS DEPT.

JUN - 9 2008

SAN FRANCISCO
PUBLIC LIBRARY

SUNSHINE ORDINANCE TASK FORCE MINUTES

Tuesday, October 23, 2007

4:00 p.m., City Hall, Room 408

Task Force Members

Seat 1	Erica Craven (Vice Chair)	Seat 8	Bruce Wolfe
Seat 2	Richard Knee	Seat 9	Hanley Chan
Seat 3	Sue Cauthen	Seat 10	Nick Goldman
Seat 4	Vacant	Seat 11	Marjorie Ann Williams
Seat 5	Kristin Chu		
Seat 6	Doug Comstock (Chair)	Ex-officio	Angela Calvillo
Seat 7	David Pilpel	Ex-officio	Harrison Sheppard

Call to Order The meeting called to order at: 4:11 P.M.

Roll Call Present: Craven, Knee, Cauthen, Chu, Comstock (arrived at 4:18), Pilpel (arrived at 4:46), Wolfe (arrived at 4:14), Chan, Goldman, Williams, Sheppard

Agenda Changes: Items were heard in the following order: 1-5, 20, 13-14, 12, 6, 8, 9, 11, 7, 15-19, 21

Deputy City Attorney: Ernie Llorente

Rosa Sanchez

Administrator: Frank Darby

Vice-chair Craven chaired the meeting and said that items #13 and 14 would be heard after item #5 since DCA Llorente would need to be recused, and DCA Sanchez was present to take his place.

Due to the long agenda, vice-chair Craven asked the Members and parties to complaints to be as brief with their comments as possible.

Member Cauthen asked that members comments be limited to four minutes.

Vice-chair Craven said Members comments would be restricted so that each

item will only have 20 minutes of comment from Members of the Task Force; she asked members to restrict their comments to 3 or 4 minutes. She that she will be a little quiet to the extent that she is chairing the meeting. Without objection.

1. a. Approval of minutes of August 28, 2007.

Public Comment: None

Motion to approve the August 28, 2007 minutes, as amended.(Knee / Goldman)

Ayes: Craven, Knee, Cauthen, Chu, Chan, Goldman, Williams

Absent: Pilpel, Wolfe

Excused: Comstock

Approval of minutes of September 25, 2007.

Public Comment: None

- b. Motion to approve the September 25, 2007 minutes, as amended.(Goldman / Chan)

Ayes: Craven, Knee, Cauthen, Chu, Chan, Wolfe, Goldman, Williams

Absent: Pilpel

Excused: Comstock

2. Discussion re: 071051_Charter Amendment - Minimum qualifications for members of City bodies that oversee and administer election, campaign finance, lobbying, conflict of interest, open meeting and public records, sponsored by Supervisor Alioto-Pier.

Speakers: none

Motion to write a letter to the Board of Supervisors expressing the Task Force's opposition to the Charter Amendment, specifically with regards to the language which states,

"(4) been a candidate for an elected office of the City and County, a treasurer for a committee that is required by state or local law to file campaign finance disclosure reports with the Ethics Commission or the Department of Elections, a registered campaign consultant, a registered lobbyist, or had an ownership interest in a registered campaign consultant or registered lobbyist, "

The Task force recommends that this language be stricken from the proposed charter amendment. (Knee / Goldman)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Wolfe, Chan, Goldman, Williams

Absent: Pilpel

Vice-chair Craven turned the meeting over to Chair Comstock.

Member Sheppard asked that the letter state that the motion was adopted unanimously. Without objection.

3. Report from the Complaint Committee meeting of October 9, 2007.

Member Cauthen made the report.

a.07060 Determination of jurisdiction of complaint filed by Alex Clark against the Public Utilities Commission for alleged failure to provide requested records, failure to provide written justification for withholding of the records, and untimely response.

Member Craven was recused without objection.

Speakers: None

Motion to accept jurisdiction. (Cauthen / Goldman)

Ayes: Knee, Cauthen, Chu, Comstock, Wolfe, Chan, Goldman, Williams

Absent: Pilpel

Recused: Craven

b.07063, 07064, and 07065 Determination of jurisdiction of complaint filed by Ray Hartz against the City Attorney for violation of Section 67.21 (c) of the Sunshine Ordinance for alleged failure to provide assistance with identifying and obtaining public information from the San Francisco Police Department, refusal to release requested information, and refusal to acknowledge the Department's responsibility to comply with the Sunshine Ordinance.

Member Chan was recused without objection.

Speakers: None

Motion to accept jurisdiction. (Knee / Cauthen)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Wolfe, Goldman, Williams

Absent: Pilpel

Recused: Chan

c.07067 Determination of jurisdiction of complaint filed by Jodi Watson against the Entertainment Commission for alleged failure to respond to an Immediate Disclosure request, and failure to provide requested records containing noise reports of Slim's nightclub from May through June 2007.

Speakers: None

Motion to accept jurisdiction. (Cauthen / Goldman)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Wolfe, Chan, Goldman, Williams

Absent: Pilpel

- d.07068 Determination of jurisdiction of complaint filed by Maxine Doogan against the District Attorney for alleged failure to provide requested records.
- Member Knee indicated that he is acquainted with the complainant, but can be fair and impartial.
- Speakers: None
- Motion to accept jurisdiction. (Cauthen / Goldman)
- Ayes: Craven, Knee, Cauthen, Chu, Comstock, Wolfe, Chan, Goldman, Williams
- Absent: Pilpel
- e.07069 Determination of jurisdiction of complaint filed by Ray Hartz against the office of Supervisor Aaron Peskin for violation of Section 67.21 (c) of the Sunshine Ordinance for alleged failure to provide assistance.
- Speakers: None
- Motion to accept jurisdiction. (Cauthen / Goldman)
- Ayes: Craven, Knee, Cauthen, Chu, Comstock, Wolfe, Chan, Goldman, Williams
- Absent: Pilpel
- f.07071 Determination of jurisdiction of complaint filed by Dee Modglin against the Mayor's Office of Housing for alleged incomplete and inaccurate release of information.
- Speakers: None
- Motion to accept jurisdiction. (Cauthen / Goldman)
- Ayes: Craven, Knee, Cauthen, Chu, Comstock, Wolfe, Chan, Goldman, Williams
- Absent: Pilpel
- g.07072 Determination of jurisdiction of complaint filed by Randell Evans against the Redevelopment Agency and Mayor's WACAC for alleged incomplete minutes by not identifying public speakers or summarizing their comments, failure to provide the agenda and packet although identified on their mailing list, and interrupting a speaker during public comment without deducting the interruption from the speakers time.
- Speakers: None
- Motion to accept jurisdiction. (Cauthen / Goldman)
- Ayes: Craven, Knee, Cauthen, Chu, Comstock, Wolfe, Chan, Goldman, Williams
- Absent: Pilpel

h.07073 Determination of jurisdiction of complaint filed by Russell Albano against the Human Resources Department – Workers Compensation Division for alleged failure to respond to two public records requests, failure to provide records, and failure to provide justification for withholding.

DCA Llorente recused himself. DCA Sanchez served as counsel.

Speakers: None

Motion to accept jurisdiction. (Cauthen / Goldman)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Wolfe, Chan, Goldman, Williams

Absent: Pilpel

i.07074 Determination of jurisdiction of complaint filed by Russell Albano against the Fire Department for alleged failure to respond in a timely manner, failure to provide the records requested, and failure to provide justification for withholding.

DCA Llorente recused himself. DCA Sanchez served as counsel.

Speakers: None

Motion to accept jurisdiction. (Cauthen / Goldman)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Wolfe, Chan, Goldman, Williams

Absent: Pilpel

Chair Comstock asked Mr. Albano if his two complaints could be combined. Mr. Albano said that the two complaints were different and asked that they remain separate.

Chair Comstock indicated that the complaints will remain separate.

4. 07038, Continued: Public Hearing, complaint filed by Anonymous Person against the
07043 & Entertainment Commission for alleged failure to provide requested records and
07044 to release information.

Speakers: Anonymous Person, Complainant, via teleconference said that he has not received all of the records requested, and the records he received were not responded to timely. He also said that he did not get information regarding Halloween festivities. Bob Davis, Respondent, said that all records responsive to Mr. Anonymous' request were provided except those that he did not pay for.

Member Craven asked Mr. Anonymous to identify documents he did not receive. Mr. Anonymous said that he did not receive 2007 amplified sound permits or information regarding Halloween.

Mr. Davis responded that the department does not have information regarding Halloween, because they are not involved; he said that the Mayor's office and Police Department would have information. He said that he is not aware of a request for loud speaker permits.

Member Craven said that the only outstanding issue is the 2007 Loud Speaker permits.

Chair Comstock asked Mr. Anonymous if providing him with the loud speaker permits would satisfy his complaint. Mr. Anonymous said "no" that Mr. Davis should be reported to the Ethics Commission.

Mr. Davis said that he would check with his office regarding the loud speaker permits, and would provide what they have to Mr. Anonymous.

Motion to find a violation (Wolfe). Motion failed for lack of a second.

No formal action taken.

5. 07056

Continued: Public Hearing, complaint filed by Myrna Lim against the Ethics Commission (EC) for alleged violation of Sunshine Ordinance §67.21 for failure to provide requested records.

Chair Comstock recused himself.

Member Knee indicated that his wife once appeared before the EC, but said that he can be fair and impartial.

Member Sheppard thanked DCA for the detailed opinion letter. He suggested that the complaint not be heard until a representative of the EC is present.

DCA Llorente said that the EC has already appeared twice and responded to the complaint. Member Sheppard withdrew his suggestion.

Member Knee moved to hear the complaint. Without objection.

Speakers: Myrna Lim, Complainant, said that the EC is not providing equal rights to all, and that the EC needs to be controlled and reigned in. John St. Croix, Respondent, provided a copy of the language for C&GCC Section 3.222 and said that they are in compliance with the law.

Ms. Lim, in rebuttal, said that Section 3.222 does not apply.

Member Sheppard asked DCA Llorente who the EC could be reported to if found in violation. DCA Llorente responded that they could be reported to the District Attorney or the Board of Supervisors.

Member Wolf said that he is concerned with DCA Llorente's analysis because he cites state and not local bodies.

Public Comment: Allen Grossman said that he does believe that the DCA's opinion is accurate; that Section 67.24 and other sections are not covered.

Kimo Crossman said that the 2004 Administrative Procedures guidebook from the Attorney General (AG) does not exempt investigative records, and urged the Task Force to so find.

Doug Comstock (speaking as a member of the public) said that he don't believe that giving the requested documents will reveal investigative techniques.

Louis Dillon said that the information should be made available.

Member Pilpel asked Ms. Lim to explain the source of the two documents that she provided. Ms. Lim responded that one was from the EC's website, and the other from the Attorney General.

Member Pilpel asked Mr. St. Croix to explain the EC's function. Mr. St. Croix provided an explanation.

Member Knee asked Mr. St. Croix whether the matter was active, and whether records could be released as per Prop 59. Mr. St. Croix responded that the matter was dismissed; that the entire investigation is not public. He said that some records could be released with redactions.

Member Chu said that the facts of the complaint were already known

Motion finding a violation of Section 67.21 of the Sunshine Ordinance for failure to provide the records requested. The Commission is instructed to provide the responsive documents that have not been provided to Ms. Lim within 5 days after the issuance of this Order of Determination. (Chu / Cauthen)

Ayes: Craven, Knee, Cauthen, Chu, Wolfe, Chan, Goldman, Williams

Noes: Pilpel

Recused: Comstock

6. 07060

Public Hearing, complaint filed by Alex Clark against the Public Utilities Commission for alleged failure to provide requested records, failure to provide written justification for withholding of the records, and untimely response.

Member Craven recused herself, without objection.

Member Williams asked to be recused due to her clients' involvement with Mr. Clark.

Motion to recuse Member Williams. (Pilpel / Knee)

Ayes: Knee, Cauthen, Chu, Comstock, Pilpel, Wolfe, Chan, Goldman, Williams

Recused: Craven

Speakers: Alex Clark, Complainant, said that he did not receive the records that he requested. Katherine Delaury, in support of the Complainant, said that there were several documents that were not provided. Alan Johanson, Respondent, said that the department provided numerous records on a rolling basis; that staff has made every effort to comply with the requests. Diane Parker, in support of the Respondent, said that they have provided thousands of documents to Mr. Clark on a rolling basis; that they have made extra effort in providing and cataloging the 42 boxes of records that were provided.

Mr. Clark, in rebuttal said that he spent thousands on records that were not responsive to his request.

Public Comment: Kimo Crossman, said that the PUC has provided the documents, so the matter should go back to the court.

Anonymous person's comments were inaudible.

Member Pipel asked Mr. Clark to identify the documents that he did not receive. Mr. Clark said that he did not receive invoices, workorders, design documents and three emails pertaining to the pressure relief valve in question.

Mr. Johanson, said that he will search for the documents that Mr. Clark requested.

Motion finding no violation. (Pipel / Chu)

Ayes: Chu, Pipel, Chan, Goldman

Noes: Knee, Cauthen, Comstock, Wolfe

Recused: Craven, Williams

The motion failed for lack of an affirmative vote (six votes) of a majority of the members of the Task Force.

Motion finding a violation of Sections 67.25 and 67.27 of the Sunshine Ordinance for failure to respond in a timely manner, and failure to justify withholding. (Cauthen / Wolfe)

Ayes: Knee, Cauthen, Comstock, Wolfe

Noes: Chu, Pipel, Chan, Goldman

Recused: Craven, Williams

The motion failed for lack of an affirmative vote (six votes) of a majority of the members of the Task Force.

No formal action taken.

7. 07063, 07064, and 07065 Public Hearing, complaint filed by Ray Hartz against the City Attorney for violation of Section 67.21 (c) of the Sunshine Ordinance for alleged failure to provide assistance with identifying and obtaining public information from the San Francisco Police Department, refusal to release requested information, and refusal to acknowledge the Department's responsibility to comply with the Sunshine Ordinance.

Member Chan recused himself. Without objection.

The Administrator informed the members that Public Information Officer Matt Dorsey, for Respondent, could not stay for the meeting due to a prior commitment, but has left documentation for the Task Force's consideration.

Speakers: Ray Hartz, Complainant said that staff in the City Attorney's office did not assist him; that he was mistreated by their staff and later arrested by the Sheriff's.

Member Cauthen said that Mr. Dorsey has provided documents that he was able to obtain from the Police Department to Mr. Hartz, as he agreed to at the Complaint Committee meeting

Mr. Hartz, in rebuttal, said that after providing him with documents that Mr. Dorsey asked him to withdraw his complaint, but he refused.

Public Comment: Anonymous person's comments were inaudible.

Member Sheppard asked Mr. Hartz if he became angry, spoke loud, and confrontational with staff in the City Attorney's office. Mr. Hartz responded that he remained calm, and respectful; that he told them that he would not leave until he was able to speak with a supervisor. He said that he sat down in a chair and read quietly until a Sheriff's deputy came in, asked him to leave, and when he refused, arrested him.

Motion finding a violation of section 67.21 (c) of the Sunshine Ordinance for failure to provide assistance. (Wolfe / Goldman)

Ayes: Knee, Comstock, Wolfe, Goldman, Williams

Noes: Craven, Cauthen, Pilpel

Recused: Chan

Absent: Chu

The motion failed for lack of an affirmative vote (six votes) of a majority of the members of the Task Force.

No formal action taken.

8. 07067 Public Hearing, complaint filed by Jodi Watson against the Entertainment Commission for alleged failure to respond to an Immediate Disclosure request, and failure to provide requested records containing noise reports of Slim's nightclub from May through June 2007.

Speakers: Jodi Watson, Complainant, said that she has received the records that she requested, but not in a timely manner.

The Administrator informed the Task Force that Mr. Davis had to leave, but indicated that he did provide the documents to Ms. Watson, and stipulated that the department did not respond in a timely manner.

Member Cauthen said that this is one of the instances where the Complaint Committee can be commended for assisting parties in resolving their dispute.

Public Comment: Anonymous person's comments were inaudible.

Motion finding a violation of Section 67.25 of the Sunshine Ordinance for failure to respond in a timely manner. (Craven / Wolfe)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Wolfe, Chan, Goldman, Williams

9. 07068 Public Hearing, complaint filed by Maxine Doogan against the District Attorney for alleged failure to provide requested records.

Speakers: Maxine Doogan, Complainant, said that the District Attorney's Office (DA) did not provide her with the records that she requested including copies of contracts, reports, statistical data, or list of Board members. Sandip Patel,

Respondent, said that the DA does not have the statistical data requested or list of Board members. He said that he provided copies of contracts that they have and that the reports are part of a criminal file and not subject to disclosure.

Ms. Doogan, in rebuttal said that Table 16 (packet pg 450) shows arrest for 2004, and that the departments response is unacceptable.

Public Comment: Anonymous persons said that she helped Ms. Doogan write the request, and that the DA should have some of the information requested.

Kimo Crossman said that he has had ongoing problems obtaining information from the DA. He suggested that a letter be written to the DA and Board of Supervisors regarding their poor record keeping, and if found in violation that the DA be referred to a DA outside of the City. He said that he hadn't heard any specifics from the complainant of records that were not received.

Members Cauthen and Knee asked Ms. Doogan what documents she wanted that she did not receive. Ms. Doogan said that she did not receive contracts from 1999 to 2004 for the First Offenders Prostitute Program (FOPP), the income received for the FOPP, and statistical data regarding the race and genders of those who participate in the FOPP.

Member Craven asked Mr. Patel if he had documents with statistical data on them. Mr. Patel said, "Yes, as part of the reports, but not a compilation. He said that the non-profit organization known as S.A.G.E. project may have this information.

In response to questions from members Mr. Patel said that he would research 1) What monies were paid to the S.A.G.E. by the DA, 2) Confirm whether Ms. Doogan has the current contract, 3) When services began being contracted out to S.A.G.E., and 4) to confirm whether there was a subsequent response to Martha Knutzen's undated letter on page 393 of the packet.

Member Pilpel referred Ms. Doogan to the Controllers office for copies of contracts and funds provided to S.A.G.E.

Motion finding a violation of Sections 67.21 and 67.25 of the Sunshine Ordinance for failure to provide records requested and failure to respond in a timely manner. The department is instructed to provide the responsive documents that have not been provided to Ms. Doogan within 5 days after the issuance of this Order of Determination. (Williams / Pilpel)

Ayes: Craven, Knee, Cauthen, Comstock, Pilpel, Wolfe, Chan, Goldman, Williams

Absent: Chu

10. 07069

Public Hearing, complaint filed by Ray Hartz against the office of Supervisor Aaron Peskin for violation of Section 67.21 (c) of the Sunshine Ordinance for alleged failure to provide assistance.

Member Chan recused himself. Without objection.

Member Craven informed Members that a representative from Supervisor

Peskings Office could not attend the meeting due to the concurrent Board meeting and a family emergency.

Speakers: Ray Hartz, Complainant, said that he went to Supervisor Peskins Office three times to request assistance, but the Supervisors Aides refused to assist him.

Public Comment: Anonymous person's comments were inaudible.

Allen Grossman said that there were no-shows at the CAC by departments and now at today's meeting, so there appears to be a problem getting departments to attend. He said that the inappropriate treatment by City Hall employees is not uncommon.

Member Cauthen said that it appears that Mr. Hartz is having the same problem with two offices and suggested that the matter be continued to allow a representative of Supervisor Peskin's office to attend.

Chair Comstock asked Mr. Hartz if he was willing to waive the 45 day requirement and continue the complaint. Mr. Hartz responded, yes.

Motion finding a violation of Section 67.21 (c) of the Ordinance for failure to provide assistance. (Wolfe / Comstock)

Ayes: Comstock, Wolfe, Goldman, Williams

Noes: Craven, Knee, Cauthen, Pilpel

Recused: Chan

Excused Absent: Chu

The motion failed for lack of an affirmative vote (six votes) of a majority of the members of the Task Force.

Motion to continue to the November 27, 2007 meeting. (Craven / Cauthen)

Ayes: Craven, Knee, Cauthen, Comstock, Wolfe, Goldman, Williams

Noes: Pilpel

Recused: Chan

Excused Absent: Chu

11. 07071

Public Hearing, complaint filed by Dee Modglin against the Mayor's Office of Housing (MOH) for alleged incomplete and inaccurate release of information.

Speakers: Dee Modglin, Complainant, said that she did not receive the records that she requested. **Supporters:** Laura Carroll, said that she has found little records in the files reviewed at the MOH. She said the MOH is claiming records were sent to the City Attorney under attorney-client privilege and then transferred back to MOH, and that the Master List was not provided. Robert McKee said that MOH has inadequate record keeping and are willfully withholding documents. Doug Shoemaker, Respondent, said that the complaint is not about providing documents but rather dissatisfaction with the program. He said that MOH does not have the records requested and that all records that

they had were provided.

Ms. Modglin, in rebuttal, said that two weeks ago she received a document that MOH initially claimed did not exist, so there might be others.

Public comment: Rubie Harris said that MOH has complied with all requests; that 14 boxes of records were provided. She said that she created most of the columns on the Master list; that a staff person put together the 20-50 year flier years ago and no one knew it existed until recently.

Anonymous person's comments were inaudible.

Kimo Crossman, said that the Task Force should find no violation because the Mayor's office has provided the records.

Member Craven asked Ms. Harris about the extent of MOH's search for the records. Ms. Harris responded that all server files, paper files, archived email, and the website were searched.

Member Wolf said that he remembers seeing the flier back in 1994 and urged Ms. Harris to check archive.org, which may have the flier. Mr. Shoemaker responded that MOH does not have the record and if they did they would provide it. He said that only MOH's correspondence with the City Attorney is privileged and not the files as Ms. Carroll indicated.

Member Willimans asked Ms. Modglin to identify the records that she did not receive. Ms. Modglin said that she did not receive access to the list of attorney client files, the redacted records, or emails.

Member Craven asked Mr. Shoemaker if the documents withheld are attorney client privileged documents. Mr. Shoemaker said yes.

Motion finding no violation. (Goldman / Pilpel)

Ayes: Craven, Knee, Cauthen, Chu, Goldman, Williams

Noes: Comstock, Wolfe, Chan,

Excused: Chu

12. 07072

Public Hearing, complaint filed by Randell Evans against the Redevelopment Agency (RA) and Mayor's Western Addition Citizens Advisory Commission (WACAC) for alleged incomplete minutes by not identifying public speakers or summarizing their comments, failure to provide the agenda and packet although identified on their mailing list, and interrupting a speaker during public comment without deducting the interruption from the speakers time.

Speakers: Randell Evans, Complainant, showed a video tape that he alleged showed him speaking during public comment, was interrupted, and the interruption was not subtracted from his time. He said that there is no evidence in the minutes to indicate that he spoke at the meeting.

Member Pilpel disclosed that he knows Rev. Townsend, but that he can be fair and impartial.

Member Williams said that she knows most of the parties, but that she can be fair and impartial.

Ace Washington, in support of the Complainant, said that he want to know what a passive meeting body is. He said that citizens in the community don't have representation on the Mayor's WACAC.

Jim Morales, Redevelopment Agency, said that advisory committees are used to advise the RA, and that the Mayor formed the WACAC in 2003. He said that the WACAC complies with the Brown Act in its meetings, that the City Attorney has determined that the RA is not bound by the Sunshine Ordinance. It is their position that the WACAC is also not bound by the Sunshine Ordinance. Supporters for the Respondent: Gaynell McCurn said that after three unexcused absences members are removed from the WACAC. Arnold Townsend said that the WACAC is a passive body; that they make recommendations to the RA but don't make policy. He said that he has interrupted Mr. Evans on occasion for being out of order and not having the floor; that he allows public comment but Mr. Evans continues on not allowing others to comment. He said that vacancies exist on the WACAC.

Mr. Evans in rebuttal said that there is no community representation on the WACAC as vacancies are filled.

Sheryl Davis, in support of the respondents, said that the issues that are before the Task Force are the omission of Mr. Evans name, the meeting notification, and alleged interruptions. She said that she and Mr. Townsend are the most engaged at the meetings, and that there has been community representation and that the community has input.

Public comment: Anonymous person's comments were inaudible.

Motion finding that it is the Task Force's determination that they lack jurisdiction over the WACAC, which is subject to the Brown Act as it reports to the Redevelopment Agency. (Pilpel / Craven)

Member Wolfe said that since the WACAC was created by the Mayor, that they are subject to the Sunshine Ordinance, and the Task Force has jurisdiction.

Member Sheppard asked Mr. Morales if he believes the Task Force does not have jurisdiction. Mr. Morales said yes.

Member Chan said that since the Mayor formed the WACAC that it falls under the Sunshine Ordinance.

Member Knee said under Section 67.3 (c) the WACAC does qualify as a passive meeting body, since it was created by the Mayor and members are appointed by the Mayor. He said that he is not clear as to whether there are requirements for minutes of passive meeting bodies and whether they been violated.

Member Craven said that there is no requirement for public comment or minutes for passive meeting bodies.

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Chan, Goldman

Noes: Wolfe, Williams

13. 07073 Public Hearing, complaint filed by Russell Albano against the Human Resources Department – Workers Compensation Division for alleged failure to respond to two public records requests, and failure to provide records.

DCA Llorente recused himself. DCA Sanchez served as counsel.

Speakers: Russell Albano, Complainant, said that the department is not complying with the Ordinance and has not provided the records. He said that he asked for his own records and that he is not certain what additional documents are being withheld. He asked for the complete release of his documents.

The Task Force noted that a representative of the Department was not present.

Member Pilpel asked Mr. Albano if he received the documents listed in his letter on page 801 of the packet. Mr. Albano said no.

Member Craven asked Mr. Albano if there were other documents that had not been disclosed. Mr. Albano said that he was sure, because the department has not revealed what other records that they are withholding.

Chair Comstock asked Mr. Albano if he requested to know the volume of records that DHR had. Mr. Albano said the he hadn't, because he don't know what they have.

Motion finding a tentative violation of Sections 67.21 and 67.25 of the Sunshine Ordinance for failure to produce records requested, and failure to respond in a timely manner. The department is instructed to provide the responsive documents that have not been provided to Mr. Albano within 5 days after the issuance of this Order of Determination. (Craven / Knee)

Ayes: Craven, Knee, Chu, Comstock, Pilpel, Wolfe, Chan, Goldman, Williams

Absent: Cauthen

14. 07074 Public Hearing, complaint filed by Russell Albano against the Fire Department (SFFD) for alleged failure to respond in a timely manner, failure to provide the records requested, and failure to provide justification for withholding.

DCA Llorente recused himself. DCA Sanchez served as counsel.

Speakers: Russell Albano, Complainant, said that the department has not responded to his request in a timely manner and has not provided the records. He said that he is only asking for his own files; that the attorney-client privilege is not valid. Rhab Boughn, Respondent, said that he received records for the physicians office, and that he looked for communications between the Medical Leave Supervisor and Workers Compensation, but there were none. He said that information regarding disability claims were referred to the Medical Leave Supervisor.

Mr. Albano, in rebuttal, said that a lot more records were requested than those at the SFFD. He said that he requested records from the Medical Leave Supervisor, and has exhausted his recourse. He said that there are more files

that should be disclosed.

Public comment: Anonymous person's comments were inaudible.

Member Wolfe asked Mr. Boughn about the types of records that exist in similar cases. Mr. Boughn identified some record types and said that he is not involved in that process.

Member Pilpel asked Mr. Boughn if there is a written document for medical leave procedures. Mr. Boughn said that there may be. Member Pilpel asked Mr. Boughn to provide the procedures to Mr. Albano if they exist.

Motion to take no action and to refer the matter to the Compliance and Amendments Committee for further discussion with the prior complaint (07073).
(Pilpel / Knee)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Wolfe, Chan, Goldman, Williams

Member Wolfe said the a representative of Workers Compensation should be demanded to appear.

15. Report: Compliance and Amendments Committee: meeting of October 10, 2007.

Member Knee made the report. He said that he will send out a couple of letters to the various parties as indicated in the minutes by the end of the week.

Member Sheppard noted that his first name was also used as his last name in the minutes.

Public Comment: Allen Grossman said that at the CAC the SF Library indicated that they would not comply with the OD; that the Ordinance is clear that there is 5 days to respond. He urged Member Pilpel and Sheppard to balance personal privacy with the public's interest; that the Attorney General's summary describes the need for this consideration.

Member Wofe, said that he has resigned from the Complaint Committee so that he can devote time to the CAC.

16. Chair's Report.

Chair Comstock said that he met with Supervisor Mirkarimi who will introduce legislation to recommend that meetings be digitally recorded. He also asked to rescind approval of the minutes in 1b.

Member Craven suggested that the minutes not be rescinded again, but that Chair Comstock agendize the adoption of amended minutes for the next meeting. Without objection.

Public Comment: None

17. Administrator's Report.

The Administrator made the report. He said that the December meeting of the Task Force falls on Christmas so they may need to decide whether to cancel or reschedule the meeting.

Chair Comstock, asked the Administrator to agendize a discussion regarding rescheduling/canceling the December 2007 Task Force meeting.

Public Comment: None

18. Discussion re: the memo from Member Harrison Sheppard.

Member Sheppard asked to defer discussion of this item to another date, and suggested that the Task Force hold a special meeting to discuss this letter and the complaint procedures; specifically with regards to scheduling and circulation.

Chair Comstock, asked the Administrator to survey the Members about their availability for a special meeting.

Public Comment: None

19. Discussion re: the Task Force's draft 2006 Annual Report.

Public Comment: None

Member Craven asked the administrator to update the Members terms

Continued to the November 27, 2007 meeting.

20. Public comment for items not listed on the agenda. Public comment shall be held at 5:00 p.m., or as soon thereafter as possible.

Public Comment: Louis Dillion said that the Task Force needs more teeth to enforce the Ordinance.

Member Wolfe said that he asked Mr. Davis to appear and asked to agendize a discussion regarding his issues.

Mr. Davis asked whether the Redevelopment Agency (RA) is subject to disclose information regarding 1) displaced persons, or 2) persons on their certificate of interest list. Chair Comstock said yes, the RA must comply with the CPRA.

Mr. Davis asked if there was any reason why that information would be privileged. Member Pilpel said yes.

Member Craven suggested that he contact the Supervisor of Public Records in the City Attorney's office to get answers to his questions.

Kimo Crossman said that Prop 59 is a separate authority that can be invoked. He said he asked the City Attorney for investigative files and received them.

Allen Grossman, said that he has two proposed amendments to the complaint procedures, 1) that the complainant be allowed to correct misstatements by the Respondents and to refocus the question, and 2) to regularize documents that are provided to the parties at the same time.

21. Announcements, questions, and future agenda items from the Task Force

Public Comment: None

Member Pilpel asked if the meeting could be adjourned in the memory of Clayton Roche formally with the Attorney Generals office who wrote or drafted

the original Brown Act and was a significant force on the opinions unit. Without objection.

Member Wolfe suggested that Members obtain a copy of the San Francisco Daily and read the top headline about two innocent men who were arrested and jailed for two months because the Police Department refused to look at their own tapes. He said that the Police were about to erase the tapes which exonerated them.

Adjournment

The meeting was adjourned at 11:37 p.m.

This meeting has been audio recorded and is on file in the Office of the Sunshine Ordinance Task Force.

Sunshine Ordinance Task Force



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-7724
Fax No. 554-7854
TDD/TTY No. 544-5227

<http://www.sfgov.org/sunshine/>

**SUNSHINE ORDINANCE TASK FORCE
SPECIAL MEETING
AGENDA**

Monday, November 26, 2007
4:00 p.m., City Hall, Room 406

Task Force Members

Seat 1	Erica Craven (Vice Chair)	Seat 8	Bruce Wolfe
Seat 2	Richard Knee	Seat 9	Hanley Chan
Seat 3	Sue Cauthen	Seat 10	Nick Goldman
Seat 4	Vacant	Seat 11	Marjorie Ann Williams
Seat 5	Kristin Chu		
Seat 6	Doug Comstock (Chair)	Ex-officio	Angela Calvillo
Seat 7	David Pilpel	Ex-officio	Harrison Sheppard

Note: Each item on the Agenda may include minutes, department or agency letters and reports; Task Force reports; and public correspondence. These items will be available for review at City Hall, Sunshine Ordinance Task Force, Room 244.

Call to Order

Roll Call

Agenda Changes

1. Discussion re: the memo from Member Harrison Sheppard. (discussion and possible action) (attachment)
2. Discussion re: the Task Force's draft 2006 Annual Report (discussion and possible action) (attachment)

Adjournment

11-16-07 11 49 AM

DOCUMENTS DEPT.

NOV 16 2007

SAN FRANCISCO
PUBLIC LIBRARY

SUNSHINE ORDINANCE TASK FORCE HEARING PROCEDURES

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations. Any person speaking during a public comment period may supply a brief written summary of their comments, which shall, if no more than 150 words, be included in the minutes. (Section 67.16)

Each member of the public who is unable to attend the public meeting or hearing may submit to the City, by the time the proceeding begins, written comments regarding the subject of the meeting or hearing; these comments will be made a part of the official public record. (Section 67.7-1 (c))

- | | | |
|----|---|----------------------|
| 1. | Complainant presents his/her facts and evidence | 5 minutes |
| | Other parties present facts and evidence | Up to 3 minutes each |
| 2. | City responds | 5 minutes |
| | Other parties of City respond | Up to 3 minutes each |

Above total speaking time for Complainant and City to be the same

- | | | |
|----|--|----------------------|
| 3. | Complainant presents rebuttal | 3 minutes |
| 4. | Public comment
(Excluding Complainant & City response, witnesses) | Up to 3 minutes each |
| 5. | Matter is with the Task Force for discussion and deliberation | |
| 6. | Vote by Task Force | |

Note: Time must be adhered to, if a speaker is interrupted by questions, the interruption does not count against his/her time.

Disability Access: The hearing room is wheelchair accessible.

Chemical-Based Products: In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals.

Cell phones, pagers and similar sound-producing electronic devices: The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decision in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact Frank Darby by mail to Administrator, Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102-4689; by phone at 415 554 7724; by fax at 415 554 7854; or by email at sotf@sfgov.org.

Citizens interested in obtaining a free copy of the Sunshine Ordinance can request a copy from Mr. Darby or by printing Chapter 67 of the San Francisco Administrative Code on the Internet, http://www.sfgov.org/site/sunshine_page.asp?id=34495

Lobbyist Registration & Reporting Requirements

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance (SF Campaign & Governmental Conduct Code Sec. 2.100) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415 581-2300; fax (415 581-2317); website: sfgov.org/ethics.

TEXT ONLY:



PRINT:



TEXT SIZE:



November 26, 2007

**SUNSHINE ORDINANCE TASK FORCE
SPECIAL MEETING**

MINUTES

**Monday, November 26, 2007
4:00 p.m., City Hall, Room 406**

DOCUMENTS DEPT.

JUN - 9 2008

SAN FRANCISCO
PUBLIC LIBRARY

Task Force Members

Seat 1	Erica Craven (Vice Chair)	Seat 8	Bruce Wolfe
Seat 2	Richard Knee	Seat 9	Hanley Chan
Seat 3	Sue Cauthen	Seat 10	Nick Goldman
Seat 4	Vacant	Seat 11	Marjorie Ann Williams
Seat 5	Kristin Chu		
Seat 6	Doug Comstock (Chair)	Ex-officio	Angela Calvillo
Seat 7	David Pilpel	Ex-officio	Harrison Sheppard

Call to Order The meeting called to order at: 4:01 P.M.

Roll Call Present: Craven, Knee, Chu, Comstock, Pilpel (in at 4:06 out at 4:57), Wolfe, Chan, Goldman, Sheppard

Excused: Cauthen, Williams

Agenda Changes: General Public Comment was heard after item #1.

Deputy City Attorney: Ernie Llorente

Administrator: Frank Darby

1. Discussion re: the memo from Member Harrison Sheppard.

Member Sheppard discussed his memo and recommendations:

1. That the Board of Supervisors budget for the creation of a record-keeping model and website design that can be used Citywide.
2. The creation of a full time legal counsel in the City Attorney's office that is dedicated to the Task Force.
3. That the Ordinance be amended to allow enforcement of Task Force decisions by the Ethics Commission.
4. Amend the Ordinance to allow more than 45 days to issue a determination.

Public Comment: Kim Crossman said that additional funding for a City Attorney and the creation of record keeping is unnecessary. He recommended that the 45-day response to complaints not be

changed; that does not agree with changing the choices for sanctions by the Ethics Commission.

Wayne Lanier said that he supports member Sheppard's recommendations. He also read a letter suggesting developing e-record keeping practices and the posting of information on the web; a copy of which Member Pilpel asked that he provide to the Task Force.

Allen Grossman suggested that independent counsel rather than a City attorney, provide support to the Task Force; that funding is already available. He said there isn't a need to study record-keeping practices because it's not too expensive for the public to know what's going on.

Member Pilpel suggested that the 45-day rule be retained, that the TF invite the Ethics Commission to discuss their process and the Board of Supervisors, City Attorney and Mayor to discuss inconsistencies; He said that what's lacking from the City Attorney's office is a summary of current case law; that the Task Force can't serve as a model for other City departments because the TF has a limited number and type of records.

Member Wolfe said that it's time for the TF to have enforcement powers because repeat offenses are burdensome; that pushing ahead with the amendments will solve problems such as using CA advice as a shield. He said the problem with the 45-day rule is more of logistics.

Member Craven said that Mr. St. Croix has already appeared before the Compliance and Amendments Committee and the suggestions have been incorporated into subsequent Orders of Determination (OD). She suggested that members get a copy of the minutes.

Member Chu suggested that the Task Force have two meetings per month and said that she doesn't see a need for the Complaint Committee.

Member Knee said that he's all for a full time counsel if affordable. He said he doesn't believe that the Task Force is costing the City; that it's important to "do our job."

Chair Comstock said that he supports flexibility with the 45-day rule and the ability to separate the diverse levels of complaints that require more thought and research.

Member Pilpel said that members should be able to respectfully disagree with parties within the City, and suggested that this item be continued to invite others parties to attend.

Member Sheppard asked the Administrator to provide him with a copy of the CAC minutes regarding the meeting that occurred with John St. Croix of the Ethics Commission.

Chair Comstock suggested that issues raised in Member Sheppard's memo be included in the 2006 Annual Report

Member Craven said that a full time legal counsel, but not an independent attorney, is needed for research; that it would be helpful to have more analysis. She said that this item does not need to be continued but rather to incorporate the recommendations in the proposed amendments and 2007 Annual Report.

Member Sheppard said he agrees with Member Craven's suggestions.

No formal action taken.

2. Discussion re: the Task Force's draft 2006 Annual Report.

Chair Comstock provided a copy of his proposed summary to members. He said that he wanted to add a sentence on page 4, section 3 of his summary in the last paragraph that says, "A review and report on the availability and efficacy of technological advances to accomplish records maintenance, review, redaction, and release."

Member Craven suggested that the 2006 and 2007 Annual Reports be combined; that language provided by Members Chu, Comstock, and Sheppard be incorporated in the report.

DCA Llorente, in response to Chair Comstock's question, said that the Task Force is required pursuant to Section 67.30 (c) of the Ordinance to submit an annual report each calendar year.

Member Sheppard suggested that the 2006 Annual Report be submitted with one paragraph which says: Pursuant to Section 67.30 (c) of the Sunshine Ordinance the Sunshine Ordinance Task Force would like to bring to the Board of Supervisors attention the fact that there are a number of policy matters which the Task Force has deliberated and we will be forwarding full recommendations respecting each one involving its relationship to other City agencies by XYZ date. That the Task Force is preparing an amalgamated report for 2006-2007 because there are a number of issues that overlap and we would like the Board of Supervisors to accept this as an interim report.

Public Comment: Kimo Crossman said that Member Sheppard could not make motions or provide written comments to the Task Force. He said that the annual report does not point out that the CA is prohibited from denying access to public records, by advising departments to get verbal advice; that the CA refused to provide copies of cited case law. He said that the cost of responding to public records should be compared with posting the records online. He suggested that an article regarding the Sunshine posse be included in the report.

Allen Grossman said that the problem is the CA's involvement with City departments; that an independent person outside the CA office is needed. He said that the department's complaints that responding to public records requests is burdensome is not valid. He said that the notion that the TF is inconsistent is untrue, but that the TF is fair in every regard.

Member Knee moved to combine the 2006 and 2007 annual report, without objection.

Member Sheppard explained that he did not say that the TF is inconsistent

Member Wolfe said that every referral to the Ethics Commission, District Attorney, and Attorney General should be actionable.

Member Craven said that she would submit her suggestions to the annual report to the Task Force. She suggested that the Administrator begin to draft the 2007 report and schedule it for review in January 2008, without objection.

Chair Comstock urged members to submit any comments to his summary and said that his summary is not meant to be an attack on the City Attorney's Office. He said that he did a study from 2002 to 2006; that in 2002 there were more cases filed and more hearings than in 2006.

Member Chu expressed concern that the summary is too negative and suggested that a more positive tone be used.

Member Wolfe said that he prefers not to soften the tone in the summary.

Member Chu offered to rewrite the Annual Report and incorporate all of the member's comments.

Public comment on items not listed on the agenda.

Speakers: Kimo Crossman said that extending the 45 day rule would not resolve the issue of late responses from departments. He said that he agreed with getting rid of the Complaint Committee, and that the CA needs to cite more case law.

Member Chu said that the Complaint Committee discussed the issue regarding responses from parties and concluded that the Task Force only needed to enforce the rules that it already has. She said that the TF should not accept documents handed out at the meeting.

Allen Grossman said that a lot would be gained if the Task Force enforced its own rules regarding responses from departments. He said that the length of time that it takes from the date the records are requested from the department to conclusion at the Compliance and Amendments Committee is a long period of time. He said that most departments do a real good job and that it is only when there are special issues involving privacy and the CA that they run into problems.

Member Craven suggested that the recommendations from Member Sheppard be referred to the CAC for inclusion in the amendments that are being considered. And including the recommendations in a summary at the beginning of the annual report.

Motion to refer the recommendations made by Member Sheppard and the additional comments made by the Task Force to the CAC for further consideration and potential adoption into the amendments that are under consideration. That the Task Force considers adding the recommendations in a summary at the beginning of the 2006 and/or 2007 annual report. (Craven/Wolfe).

Ayes: Craven, Knee, Chu, Comstock, Wolfe, Chan, Goldman

Excused: Cauthen, Pilpel, Williams

Member Knee said that the Task Force needs to be careful where in the ordinance each of the recommendations might be added, which might require reopening previously discussed sections in Article III and IV.

Chair Comstock asked the Administrator to schedule a discussion at the next Task Force meeting regarding whether or not the Complaint Committee serves an essential function in its determination of jurisdiction of complaints that could not be performed at the full Task Force, and/or whether the committee should be combined with the Task Force meetings, which could be held twice monthly.

Adjournment

The meeting was adjourned at 5:47 p.m.

This meeting has been audio recorded and is on file in the Office of the Sunshine Ordinance Task Force.

Sunshine Ordinance Task Force



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-7724
Fax No. 554-7854
TDD/TTY No. 544-5227

<http://www.sfgov.org/sunshine/>

**SUNSHINE ORDINANCE TASK FORCE
AGENDA**

Tuesday, November 27, 2007
4:00 p.m., City Hall, Room 408

Task Force Members

Seat 1 Erica Craven (Vice Chair)
Seat 2 Richard Knee
Seat 3 Sue Cauthen
Seat 4 Vacant
Seat 5 Kristin Chu
Seat 6 Doug Comstock (Chair)
Seat 7 David Pilpel

Seat 8 Bruce Wolfe
Seat 9 Hanley Chan
Seat 10 Nick Goldman
Seat 11 Marjorie Ann Williams
Ex-officio Angela Calvillo
Ex-officio Harrison Sheppard

DOCUMENTS DEPT

NOV 21 2007

SAN FRANCISCO
PUBLIC LIBRARY

Note: Each item on the Agenda may include minutes, department or agency letters and reports; Task Force reports; and public correspondence. These items will be available for review at City Hall, Sunshine Ordinance Task Force, Room 244.

Call to Order

Roll Call

Agenda Changes

1. Approval of minutes of October 23, 2007. (action item) (5 min) (attachment)
2. Report from the Complaint Committee meeting of October 9, 2007 and November 13, 2007. (Sue Cauthen)
 - a. 07066 Determination of jurisdiction of complaint filed by Charles Pitts against the Department of Human Services and the Central City Hospitality House for alleged failure to provide a complete copy of his personnel file. (action item)
 - b. 07075 Determination of jurisdiction of complaint filed by Laura Carroll against the Mayor's Office of Housing for violation of Section 67.21 and 67.26 of the Sunshine Ordinance for alleged failure to provide documents, and failure to keep withholding to a minimum. (action item)
 - c. 07076 Determination of jurisdiction of complaint filed by Charles Bolton against the Dept. of Public Works for violation of §§ 67.15, 67.24, 67.25, 67.27, 67.7-1 and 67.5 of the Ordinance for alleged failure to provide records, untimely response, failure to justify withholding, improper notice of the July 25, 2007 meeting, and failure to allow public comment at the September 5, 2007 meeting. (action item)

- d. 07077 Determination of jurisdiction of complaint filed by Allen Grossman against the Office of the District Attorney for violation of Sections 67.21 (b), 67.25 (a) of the Sunshine Ordinance, and CPRA Section 6253 (b) for alleged failure to respond to an immediate disclosure requested submitted on September 20, 2007. (action item)
- e. 07078 & 07079 Determination of jurisdiction of complaint filed by John Chapman against the Controllers Office and the Public Utilities Commission for alleged failure to provide requested records and failure to respond in a timely manner. (action item)
- f. 07080 Determination of jurisdiction of complaint filed by Dan Boreen against the Fire Department for violation of Sections 67.24-67.27; 67.29-5 of the Sunshine Ordinance, and CPRA Section 6254 for alleged failure to provide records, failure to keep withholding to a minimum, failure to justify withholding, and untimely response. (action item)
- g. 07081 Determination of jurisdiction of complaint filed by Hanley Chan against the Police Department for violation of Section 67.21 and 67.22 of the Sunshine Ordinance for alleged failure to provide records and oral information. (action item)
- 3. 07066 Public Hearing, complaint filed by Charles Pitts against the Department of Human Services and the Central City Hospitality House for alleged failure to provide a complete copy of his personnel file. (action item) (30 min) (attachment)
- 4. 07069 Continued: Public Hearing, complaint filed by Ray Hartz against the office of Supervisor Aaron Peskin for violation of Section 67.21 (c) of the Sunshine Ordinance for alleged failure to provide assistance. (action item) (30 min) (attachment)
- 5. 07075 Public Hearing, complaint filed by Laura Carroll against the Mayor's Office of Housing for violation of Section 67.21 and 67.26 of the Sunshine Ordinance for alleged failure to provide documents, and failure to keep withholding to a minimum. (action item) (30 min) (attachment)
- 6. 07076 Public Hearing, complaint filed by Charles Bolton against the Department of Public Works for violation of Sections 67.15, 67.24, 67.25, 67.27, 67.7-1 and 67.5 of the Sunshine Ordinance for alleged failure to provide records, untimely response, justify withholding, improper notice of the July 25, 2007 meeting, and failure to allow public comment at the September 5, 2007 meeting. (action item) (30 min) (attachment)
- 7. 07077 Public Hearing, complaint filed by Allen Grossman against the Office of the District Attorney for violation of Sections 67.21 (b), 67.25 (a) of the Sunshine Ordinance, and CPRA Section 6253 (b) for alleged failure to respond to an immediate disclosure requested submitted on September 20, 2007. (action item) (30 min) (attachment)

8. 07078 & 07079 Public Hearing, complaint filed by John Chapman against the Controllers Office and the Public Utilities Commission for alleged failure to provide requested records and failure to respond in a timely manner. (action item) (30 min) (attachment)
9. 07080 Public Hearing, complaint filed by Dan Boreen against the Fire Department for violation of Sections 67.24-67.27; 67.29-5 of the Sunshine Ordinance, and CPRA Section 6254 for alleged failure to provide records, failure to keep withholding to a minimum, failure to justify withholding, and untimely response. (action item) (30 min) (attachment)
10. 07081 Public Hearing, complaint filed by Hanley Chan against the Police Department for violation of Section 67.21 and 67.22 of the Sunshine Ordinance for alleged failure to provide records and oral information. (action item) (30 min) (attachment)
11. Report: Compliance and Amendments Committee: meeting of November 14, 2007. (Richard Knee). (discussion and possible action) (10 min) (attachment)
12. 07061 & 07062 The Compliance and Amendments Committee has referred to the Task Force for further consideration, their recommendation that the San Francisco Library be found in willful misconduct for failure to comply with the Sunshine Ordinance, and failure to comply with the Order of Determination issued by the full Task Force on September 25, 2007; that referral, based on that finding, be forwarded to the District Attorney, Attorney General, the Board of Supervisors, and Ethics Commission for enforcement be considered. (action item) (20 min) (attachment)
13. 07056 The Compliance and Amendments Committee has referred to the Task Force the request for reconsideration of the October 23, 2007, Order of Determination based on new evidence, from the Ethics Commission, and the Committee's recommendation that the Ethics Commission be found in willful misconduct for failure to comply with the Sunshine Ordinance, and failure to comply with the Order of Determination issued by the full Task Force on October 23, 2007; that referral for enforcement, based on that finding, to the District Attorney, Attorney General, and the Board of Supervisors be considered. (action item) (20 min) (attachment)
14. 06034 The Compliance and Amendments Committee has referred to the Task Force the request for reconsideration of the January 23, 2007 Order of Determination from Jason Grant Garza against the Department of Public Health and SF General Hospital based on new evidence. (action item) (20 min) (attachment)
15. Discussion re: Canceling and/or rescheduling the December 25, 2007 Task Force meeting. (discussion) (10 minutes) (no attachment)
16. Administrator's Report. (discussion) (5 minutes) (attachment)

17. Public comment for items not listed on the agenda. Public comment shall be held at 5:00 p.m., or as soon thereafter as possible. (no action item) (12 min)
18. Announcements, questions, and future agenda items from the Task Force. (no action item) (5 min) (no attachment)

Adjournment

Next Meeting December 25, 2007

November 27, 2007

TO: Sunshine Ordinance Task Force
FM: Sue Cauthen for the Complaint Committee
RE: Information for Orders of Determination

We are providing a list of relevant SO code sections only (except for Items 4 & 6). Any records the TF orders produced should be provided in 5 days.

NB: Due to time constraints, this document was written before issuance of the city attorney's informational letter.

KEY: CAO: City Attorney's Office; COB: Clerk of Board of Supervisors; CPRA: California Public Records Act; DPW: Department of Public Works; IDR: Immediate Disclosure Request; PUC: Public Utilities Commission; SO: Sunshine Ordinance; TF: Task Force; 12L: Section 12L of the Administrative Code

I. (07066) CHARLES PITTS v. HUMAN SERVICES-CENTRAL CITY HOSPITALITY HOUSE.

SO: 67.21 (provide records); 12L.5

II. (07069) RAY HARTZ v. SUPERVISOR AARON PESKIN

SO: 67.21 (c) (provide assistance)

I. (07075) LAURA CARROLL v. MAYORS OFFICE OF HOUSING

SO: 67.21 (provide records); 67.25 (IDR)

II. (07076) CHARLES BOLTON v. DPW

SO: 67.21 (provide records); 67.7-1 (public notice); 67.15 (public comment); 67.27 (justify withholding)

III. (07077) ALLEN GROSSMAN v. DISTRICT ATTORNEY

SO: 67.21 provide records; 67.25 IDR

CPRA: 6253 (produce records)

IV. (07078) (07079) JOHN CHAPMAN v. CONTROLLER & PUC

SO: 67.21 (produce records), 67.21c (direct requestor), 67.25 (IDR)

V. (07080) DAN BOREEN v. SAN FRANCISCO FIRE DEPARTMENT

SO: 67.21 provide records, 67.24 disclosable records, 67.25 IDR, 67.26 minimum withholding, 67.27 justify withholding, 67.29-5 (calendars)
CPRa: 6253 provide records

VI. (07081) HANLEY CHAN v. POLICE DEPARTMENT

SO: 67.21 produce records, 67.22 oral information

VII. (07083) JOHN DARMANIN v. FIRE DEPARTMENT

SO: 67.15 public comment, 67.7a agenda requirements

SUNSHINE ORDINANCE TASK FORCE HEARING PROCEDURES

Note: Each member of the public will be allotted the same maximum number of minutes to speak as set by the Chair at the beginning of each item, excluding persons requested by the Task Force to make presentations. Any person speaking during a public comment period may supply a brief written summary of their comments, which shall, if no more than 150 words, be included in the minutes. (Section 67.16)

Each member of the public who is unable to attend the public meeting or hearing may submit to the City, by the time the proceeding begins, written comments regarding the subject of the meeting or hearing; these comments will be made a part of the official public record. (Section 67.7-1 (c))

- | | | |
|----|---|----------------------|
| 1. | Complainant presents his/her facts and evidence | 5 minutes |
| | Other parties present facts and evidence | Up to 3 minutes each |
| 2. | City responds | 5 minutes |
| | Other parties of City respond | Up to 3 minutes each |

Above total speaking time for Complainant and City to be the same

- | | | |
|----|--|----------------------|
| 3. | Complainant presents rebuttal | 3 minutes |
| 4. | Public comment
(Excluding Complainant & City response, witnesses) | Up to 3 minutes each |
| 5. | Matter is with the Task Force for discussion and deliberation | |
| 6. | Vote by Task Force | |

Note: Time must be adhered to, if a speaker is interrupted by questions, the interruption does not count against his/her time.

Disability Access: The hearing room is wheelchair accessible.

Chemical-Based Products: In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals.

Cell phones, pagers and similar sound-producing electronic devices: The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decision in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, contact Frank Darby by mail to Administrator, Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102-4689; by phone at 415 554 7724; by fax at 415 554 7854; or by email at sotf@sfgov.org.

Citizens interested in obtaining a free copy of the Sunshine Ordinance can request a copy from Mr. Darby or by printing Chapter 67 of the San Francisco Administrative Code on the Internet, http://www.sfgov.org/site/sunshine_page.asp?id=34495

Lobbyist Registration & Reporting Requirements

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance (SF Campaign & Governmental Conduct Code Sec. 2.100) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415 581-2300; fax (415 581-2317); website: sfgov.org/ethics.

TEXT ONLY:



PRINT:



TEXT SIZE:



November 27, 2007

SUNSHINE ORDINANCE TASK FORCE

MINUTES

**Tuesday, November 27, 2007
4:00 p.m., City Hall, Room 408**

DOCUMENTS DEPT

JUN - 9 2008

SAN FRANCISCO
PUBLIC LIBRARY

Task Force Members

Seat 1	Erica Craven (Vice Chair)	Seat 8	Bruce Wolfe
Seat 2	Richard Knee	Seat 9	Hanley Chan
Seat 3	Sue Cauthen	Seat 10	Nick Goldman
Seat 4	Vacant	Seat 11	Marjorie Ann Williams
Seat 5	Kristin Chu		
Seat 6	Doug Comstock (Chair)	Ex-officio	Angela Calvillo
Seat 7	David Pilpel	Ex-officio	Harrison Sheppard

Call to Order The meeting was called to order at: 4:02 P.M.

Roll Call Present: Craven (in at 4:34, out at 7:00), Knee, Cauthen (out at 9:13), Chu (out at 9:45), Comstock, Pilpel, Wolfe (in at 4:12), Chan (in at 4:09), Goldman, Williams (out at 9:50)

Excused: Sheppard

Agenda Changes: Items were heard in the following order: 1-3, 5, 17, 6-10, 13, 11-12, 14, 4, 15-16, 18

Deputy City Attorney: Ernie Llorente

Administrator: Frank Darby

1. Approval of minutes of October 23, 2007.
Public Comment: None
Motion to approve the October 23, 2007 minutes, as amended.(Knee / Goldman)
Ayes: Knee, Cauthen, Chu, Comstock, Pilpel, Goldman, Williams
Absent: Craven, Wolfe, Chan
2. Report from the Complaint Committee meeting of October 9, 2007 and November 13, 2007.
Member Cauthen made the report.

- a.07066 Determination of jurisdiction of complaint filed by Charles Pitts against the Department of Human Services and the Central City Hospitality House for alleged failure to provide a complete copy of his personnel file.
- DCA Llorente said that his letter states that the Task Force does not have jurisdiction because the requested records do not fall under the 12L requirements.
- Speakers: Charles Pitts, Complainant, said that he requested his personnel files from CCHH, but did not get all of them. He urged the Task Force to find jurisdiction. Pamela Tebo and David Curto, Respondents for DHS, said that the department does not have the records requested but did their best to resolve the matter by providing the documents that were received from CCHH to Mr. Pitts. Jackie Jenks, Respondent CCHH, said that they have complied with the Sunshine Ordinance, but that client files do not fall under the ordinance. She urged the Task Force to find no jurisdiction.
- Motion to accept jurisdiction. (Cauthen / Goldman)
- Ayes: Cauthen
- Noes: Knee, Chu, Comstock, Pilpel, Wolfe, Chan, Goldman, Williams
- Excused: Craven
- b.07075 Determination of jurisdiction of complaint filed by Laura Carroll against the Mayor's Office of Housing for violation of Section 67.21 and 67.26 of the Sunshine Ordinance for alleged failure to provide documents, and failure to keep withholding to a minimum.
- Speakers: None
- Motion to accept jurisdiction. (Cauthen / Goldman)
- Ayes: Knee, Cauthen, Chu, Comstock, Pilpel, Wolfe, Chan, Goldman, Williams
- Excused: Craven
- c.07076 Determination of jurisdiction of complaint filed by Charles Bolton against the Dept. of Public Works for violation of §§ 67.15, 67.24, 67.25, 67.27, 67.7-1 and 67.5 of the Ordinance for alleged failure to provide records, untimely response, failure to justify withholding, improper notice of the July 25, 2007 meeting, and failure to allow public comment at the September 5, 2007 meeting.
- Speakers: Kimo Crossman recommended that members do a hand vote.
- Motion to accept jurisdiction. (Cauthen / Goldman)
- Ayes: Knee, Cauthen, Chu, Comstock, Pilpel, Wolfe, Chan, Goldman, Williams
- Excused: Craven
- d.07077 Determination of jurisdiction of complaint filed by Allen Grossman against the Office of the District Attorney for violation of Sections 67.21 (b), 67.25 (a) of the Sunshine Ordinance, and CPRA Section 6253 (b) for alleged failure to respond to an immediate disclosure requested submitted on September 20, 2007.
- Speakers: None
- Motion to accept jurisdiction. (Cauthen / Goldman)
- Ayes: Knee, Cauthen, Chu, Comstock, Pilpel, Wolfe, Chan, Goldman, Williams
- Excused: Craven
- e.07078 & 07079 Determination of jurisdiction of complaint filed by John Chapman against the Controller's Office and the Public Utilities Commission for alleged failure to provide requested records and failure to respond in a timely manner.
- Speakers: John Chapman, Complainant, said that since he has the records the only matter of concern is regarding timeliness.

Motion to accept jurisdiction. (Cauthen / Goldman)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Wolfe, Chan, Goldman, Williams

- f.07080 Determination of jurisdiction of complaint filed by Dan Boreen against the Fire Department for violation of Sections 67.24-67.27; 67.29-5 of the Sunshine Ordinance, and CPRA Section 6254 for alleged failure to provide records, failure to keep withholding to a minimum, failure to justify withholding, and untimely response.

Speakers: John Champ

Motion to accept jurisdiction. (Cauthen / Goldman)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Wolfe, Chan, Goldman, Williams

- g.07081 Determination of jurisdiction of complaint filed by Hanley Chan against the Police Department for violation of Section 67.21 and 67.22 of the Sunshine Ordinance for alleged failure to provide records and oral information.

Motion to recuse Member Chan. (Pilpel / Wolfe)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Wolfe, Chan, Goldman, Williams

Speakers: None

Motion to accept jurisdiction. (Cauthen / Goldman)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Wolfe, Goldman

Absent: Williams

Recused: Chan

3. 07066 Public Hearing, complaint filed by Charles Pitts against the Department of Human Services (DHS) and the Central City Hospitality House (CCHH) for alleged failure to provide a complete copy of his personnel file.

No action taken. Motion to accept jurisdiction failed.

4. 07069 Continued: Public Hearing, complaint filed by Ray Hartz against the office of Supervisor Aaron Peskin for violation of Section 67.21 (c) of the Sunshine Ordinance for alleged failure to provide assistance.

Chair Comstock disclosed that he served on Ms. Chung's campaign, but can be fair and impartial.

Member Cauthen said that she has served with Ms. Chung in the district, and can be fair and impartial.

Member Knee said that lives in Supervisor Peskin's district and can be fair and impartial.

Speakers: Rose Chung, Aide to Supervisor Peskin, in response to Chair Comstock agreed to postpone the hearing in the absence of Mr. Hartz.

Continued, without objection.

5. 07075 Public Hearing of complaint filed by Laura Carroll against the Mayor's Office of Housing (MOH) for violation of Sections 67.21 and 67.26 of the Sunshine Ordinance for alleged failure to provide documents, and failure to keep withholding to a minimum.

Speakers: Laura Carroll, Complainant, urged the Task Force to find a violation of Sections 67.21, 67.24 and 67.26 of the Ordinance. Dee Modglin, in support of the complainant, said that the MOH is withholding information and is not responding timely.

Member Wolfe disclosed that he met with Ms. Modglin on an unrelated matter, and can be fair and impartial. He also said that he is on the Board of Directors having discussions with MOH and can be fair and impartial.

Myrna Melgar, MOH Representative, said that all of the requested records have been provided to Ms. Carroll to the best of their abilities.

Ms. Carroll, in rebuttal, said that MOH has a responsibility to provide records regardless of their record keeping practices.

Public Comment: Kimo Crossman, said that attorney-client privilege can be waived. He asked the Task Force to have DCA Llorente write an opinion as to whether the communications are privileged.

Motion finding the Mayor's Office of Housing in violation of Sections 67.21 of the Sunshine Ordinance for failure to respond in a timely manner. This matter is referred to the Compliance and Amendments Committee, for its December 12, 2007 hearing. Within 5 days of the Order of Determination, the MOH should produce to the Task Force and the complainant the correspondence from the City Attorney's Office specifying which documents MOH was advised to withhold from release on the basis of attorney-client privilege. The MOH is also instructed to double check to ensure that the withholding was as narrow as possible and whether redacted documents can be provided in certain circumstances. (Craven / Cauthen)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Wolfe, Goldman, Williams

Excused: Chan

6. 07076 Public Hearing of complaint filed by Charles Bolton against the Department of Public Works for violation of Sections 67.15, 67.24, 67.25, 67.27, 67.7-1 and 67.5 of the Sunshine Ordinance for alleged failure to provide records, untimely response, failure to justify withholding, improper notice of the July 25, 2007, meeting, and failure to allow public comment at the September 5, 2007, meeting.

Speakers: Charles Bolton, Complainant, said that he has not had problems getting a response from the Administrator, who has been very helpful. He said that he requested records regarding Mechanical Street Cleaning legislation but did not receive a response.

Oga Ryerson and Chris Montgomery, DPW representatives, apologized for their lack of response and untimely response. They said that the street cleaning legislation had been deleted from a staff members's file and was found in another file yesterday. The file was handed to Mr. Bolton.

Mr. Bolton in rebuttal said that he was impressed with the department's response and said that it is an excellent first step to resolving the matter.

Public Comment: Jason Garza, said that he is concerned that the department is being commended for not responding timely.

Kimo Crossman, said that the department has a duty to access and locate records.

Motion finding the Department of Public Works in violation of Sections 67.21 of the Sunshine Ordinance for failure to respond in a timely manner. As all responsive records have now been produced, the Task Force shall take no further action on this complaint. (Craven / Goldman)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Wolfe, Goldman, Williams

Excused: Chan

7. 07077 Public Hearing of complaint filed by Allen Grossman against the Office of the District Attorney (DA) for violation of Sections 67.21 (b), 67.25 (a) of the Sunshine Ordinance, and CPRA Section 6253 (b) for alleged failure to respond to an immediate disclosure requested submitted on September 20, 2007.

Speakers: Allen Grossman, Complainant, said that he did not receive the requested records; that he was provided a spreadsheet containing record logs. Sandip Patel, DA representative, said that for security reasons a database that identifies where records are located were not provided. He said that according to Section 67.24 (d) of the Ordinance the DA must balance certain concerns.

Mr. Grossman, in rebuttal, said that he is only interested in the database of the media sent to GRM;

that the DA claims to have no system for backup and retrieval of e-mails, or ability to identify records stored.

Public Comment: Kimo Crossman questioned Mr. Patel's right to represent the DA, whom, he alleges is an intern. He said the DA's software does create a log of records that are backed up; that Section 67.24 (d) only applies to investigative files, not general files.

Jason Garza said that it is a "red herring" to not provide the list from the database.

Ms. Johnson's comments were inaudible.

Motion finding the District Attorney's Office in violation of Sections 67.21, 67.21-1, 67.25, 67.26, and 67.27 of the Sunshine Ordinance and Government Code Sections 6253 and 6253.9 for failure to provide records, failure to use computer technology to provide access to records, failure to respond in a timely manner, failure to keep withholding to a minimum, and failure to justify withholding. The District Attorney's Office is instructed to provide the responsive documents that have not been provided to Mr. Grossman, including any log from the Arc Soft program that shows the date files were backed-up or archived, within 5 days after the issuance of this Order of Determination.

(Comstock / Goldman)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Wolfe, Goldman, Williams

Excused: Chan

8. 07078 & 07079 Public Hearing of complaint filed by John Chapman against the Controllers Office and the Public Utilities Commission (PUC) for alleged failure to provide records requested and failure to respond in a timely manner.

Speakers: John Chapman, Complainant, said that he was satisfied with the Administrators response to him. He said that he received all responsive documents and that the only matter is the untimely response.

Ed Harrington, Controller, said that the matter would have been handled differently if it had been submitted as a Sunshine request. He said that an extensive search was done to locate the information, but Mr. Chapman was not informed about the research being done. He apologized for their breakdown in communication.

At the conclusion of testimony by the complainant and respondent, and extensive discussions among its members, the Task Force took no formal action.

9. 07080 Public Hearing of complaint filed by Dan Boreen against the Fire Department (FD) for violation of Sections 67.24-67.27; 67.29-5 of the Sunshine Ordinance, and CPRA Section 6254 for alleged failure to provide records, failure to keep withholding to a minimum, failure to justify withholding, and untimely response.

Speakers: Dan Boreen, Complainant, asked that his complaint be divided into four separate matters.

By consensus of the Task Force, the complaint was separated into four separate matters

07080a: Dan Boreen, Complainant, said that the department withheld pay type information. Ms. Johnson spoke in support of the complainant. Her comments were inaudible.

Rhab Boughn, SFFD representative, said that the department redacted medical related information from the time rolls, but that some time rolls were provided.

Motion finding the Fire Department in violation of Sections 67.26 and 67.27 for failure to keep withholding to a minimum and failure to justify withholding. The Fire Department is instructed to provide the "City-paid benefit" type the Department redacted from the time rolls provided to Mr. Boreen within 5 days after the issuance of this Order of Determination. (Comstock / Pilpel)

Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Wolfe, Chan, Goldman, Williams

07080b: Dan Boreen, Complainant, said that the department redacted information from the Department Head's calendar and did not provide a detailed calendar. Ms. Johnson spoke in support of the complainant. Her comments were inaudible.

Rhab Boughn, SFFD representative, said that the department provided the calendar that they had.

Mr. Boreen, in rebuttal, said that the department's response was untimely.

Public Comment: Kimo Crossman, said that information regarding Department Heads can't be redacted.

Peter Warfield, said that he was glad that the Task Force divided the complaint and urged the Task Force not to combine future complaints.

Motion finding the Fire Department in violation of Sections 67.26 and 67.27 of the Sunshine Ordinance for failure to keep withholding to a minimum and failure to justify withholding. The department is instructed to provide the Department Head's calendar that has not been provided to Mr. Boreen within 5 days after the issuance of this Order of Determination. The Task Force further request that Chief Joanne Hayes-White attend the December 12, 2007, Compliance and Amendments Committee meeting regarding this matter.

(Comstock / Wolfe)

Ayes: Craven, Knee, Cauthen, Comstock, Wolfe, Goldman, Williams

Noes: Chu, Pilpel, Chan

07080c Dan Boreen, Complainant, said that he received a copy of the Deputy Chief's calendar but it had nothing on it.

Rhab Boughn, SFFD representative, said that he provided Mr. Boreen the calendar that was given to him.

Mr. Boreen, in rebuttal, said that the calendar is empty and that the Deputy Chief is hiding and withholding information.

Public Comment: Kimo Crossman, said that the Deputy Chief probably has another calendar that is producible.

Peter Warfield, said that the blank calendar pages appear to be a violation of Sections 67.26 and 67.27 of the Ordinance.

Jason Garza, said that non-disclosure is a common practice for departments.

Motion finding the Fire Department in violation of Sections 67.25, 67.26 and 67.27 of the Sunshine Ordinance for failure to respond in a timely manner, failure to keep withholding to a minimum and failure to justify withholding. The department is instructed to provide the Deputy Chief of Administration's calendar that has not been provided to Mr. Boreen within 5 days after the issuance of this Order of Determination. The Task Force further requests that Deputy Chief of Administration Gary Massetani attend the December 12, 2007, Compliance and Amendments Committee meeting regarding this matter.

(Comstock / Chan)

Ayes: Knee, Cauthen, Comstock, Wolfe, Chan, Goldman, Williams

Noes: Chu, Pilpel

Excused: Craven

07080d Dan Boreen, Complainant, said that he asked for, but did not receive, the assignment officer's signed time rolls.

Rhab Boughn, SFFD representative, said that the department does not have signed time rolls, but provided unsigned time rolls.

Mr. Boreen, in rebuttal, said that the problem with unsigned time rolls is that changes can occur, but that might not be reflected on the time rolls.

Public Comment: Kimo Crossman, said that it's not clear what section of the Ordinance is being violated.

Ms. Johnson's comments were inaudible.

Peter Warfield, said that records must be kept in a professional manner although the Ordinance does not require that signed time rolls be kept.

Motion finding the Fire Department in violation of Section 67.25 of the Sunshine Ordinance for failure to respond in a timely manner. (Pilpel / Knee)

Ayes: Knee, Cauthen, Comstock, Pilpel, Wolfe, Chan, Goldman, Williams

Noes: Chu,

Excused: Craven

10. 07081 Public Hearing of complaint filed by Hanley Chan against the Police Department (PD) for violation of Section 67.21 and 67.22 of the Sunshine Ordinance for alleged failure to provide records and oral information.

Speakers: Hanley Chan, Complainant, said that he requested information explaining why his recommended applicant was denied employment, but did not receive the information. Jack Hart, SFFD representative, said that neither an oral nor written request for records was made. He said that Mr. Chan spoke via telephone with Sergeant Tom Craig regarding the matter. He said that pursuant to Section 67.27 Government code Sections 6254 (c), 6254 (d)(2), and 6254 (f) allows the withholding of private and personnel information.

Mr. Chan, in rebuttal, said that the date identified in the jurisdictional letter is incorrect. He said that the request was made in September. He said that the department should have written guidelines detailing their hiring criteria.

Public Comment: Kimo Crossman suggested that the matter be continued due to the lateness of the meeting.

Jason Garza, said that Sgt. Craig Tom should appear to verify what occurred.

Motion finding no violation. (Pilpel / Goldman)

Ayes:, Knee, Chu, Comstock, Pilpel, Wolfe, Goldman

Noes: Williams

Absent: Cauthen

Excused: Craven

Recused: Chan

11. Report: Compliance and Amendments Committee: meeting of November 14, 2007.

Member Knee made the report.

Public Comment: Ms. Johnson's comments were inaudible.

Peter Warfield, said that the minutes should also indicate the posting of information on the web regarding grants.

12. 07061 & 07062 The Compliance and Amendments Committee has referred to the Task Force for further consideration that the San Francisco Library be found in willful misconduct for failure to comply with the Sunshine Ordinance, and failure to comply with the Order of Determination issued by the full Task Force on September 25, 2007; that referral, based on that finding, be

forwarded to the District Attorney, Attorney General, the Board of Supervisors, and Ethics Commission for enforcement be considered.

Speakers: Peter Warfield, Complainant, requested a continuance because there are only six members present.

Sue Blackman and Helen Baptiste, Library representatives, opposed a continuance.

Public Speakers: Kimo Crossman, urged the Task Force to grant a continuance.

Allen Grossman said that urged the Task Force to grant a continuance until nine members are present.

Motion to continue. (Wolfe / Goldman)

Ayes: Knee, Comstock, Pilpel, Wolfe, Chan, Goldman

Absent: Cauthen, Williams

Excused: Craven, Chu

13. 07056 The Compliance and Amendments Committee has referred to the Task Force the request for reconsideration of the October 23, 2007, Order of Determination based on new evidence, from the Ethics Commission, and the Committee's recommendation that the Ethics Commission (EC) be found in willful misconduct for failure to comply with the Sunshine Ordinance, and failure to comply with the Order of Determination issued by the full Task Force on October 23, 2007; that referral for enforcement, based on that finding, to the District Attorney (DA), Attorney General, and the Board of Supervisors (BOS) be considered.

Chair Comstock was recused. Member Knee Chaired the meeting.

Speakers: Myrna Lim, Complainant, said that it is inappropriate for the EC to claim to have new information when they only have "boiler-plate" information. Supporters: Ms. Johnson said that she has had similar experiences...inaudible. Jason Garza said the EC is unethical, immoral, and unjust.

John St. Croix, EC representative, said that his November 8 letter outlines his request for reconsideration. He said that the EC is the highest authority to submit referrals to.

Ms. Lim, in rebuttal, said the information provided for reconsideration is not new information.

Public Comment: Kimo Crossman, said that since the EC did not provide the records the matter should be referred to the BOS and the DA.

Allen Grossman, said that he did not hear any new evidence provided by the EC. He said that Section 67.36 of the Ordinances says that the Sunshine Ordinance Supersedes Other Local Laws.

Motion to reconsider the Order of Determination. (Pilpel) The motion failed for lack of a second.

Motion to refer to the Board of Supervisors. (Chu / Goldman)

Ayes: Wolfe, Chan, Goldman, Williams

Noes: Knee, Pilpel

Recused: Comstock

Absent: Cauthen

Excused: Craven, Chu

Member Knee asked that the matter brought back before the full Task Force at its next meeting. Without objection.

14. 06034 The Compliance and Amendments Committee has referred to the Task Force the request for reconsideration of the January 23, 2007 Order of Determination from Jason Grant Garza against the Department of Public Health and SF General Hospital based on new evidence.

Speakers: Jason Grant Garza, Complainant, asked that the matter be continued. He asked what the consequences where to the department for not appearing.

Public Comment: Ms. Johnson's comments were inaudible.

Member Pilpel asked if the Task Force could address the reconsideration and merits at the same time. DCA Llorente responded that generally the merits are not heard head at the time reconsideration is granted.

Motion to continue. (Knee / Goldman)

Ayes: Pilpel

Noes: Knee, Comstock, Wolfe, Chan, Goldman

Absent: Cauthen, Williams

Excused: Craven, Chu

Jason Garza, said that his new evidence is the Settlement Agreement included in the packet. He said it shows that the Hospital violated the law.

Public Comment: Ms. Johnson said that reconsideration is already merited, remainder inaudible.

Peter Warfield, urged the Task Force to take action against the department in support of the complainant for their failure to attend, as required under Section 67.21 (e) of the Ordinance.

Motion to reconsider. (Comstock / Wolfe)

Ayes: Knee, Comstock, Wolfe , Chan

Noes: Pilpel, Goldman

Absent: Cauthen, Williams

Excused: Craven, Chu

15. Discussion re: Canceling and/or rescheduling the December 25, 2007, Task Force meeting.

Public Comment: None

The Task Force, by consensus, canceled the December 25, 2007, Task Force meeting. A Special Task Force meeting is scheduled for Tuesday, January 8, 2008, at 4:00 PM. The Complaint Committee will meet as a committee of the whole.

16. Administrator's Report.

The Administrator made the report.

Public Comment: None

17. Public comment for items not listed on the agenda. Public comment shall be held at 5:00 p.m., or as soon thereafter as possible.

Public Comment: Jason Garza, said that by taking public comment on an item prior to the discussions deprives the public from providing sufficient comment.

Member Williams asked the Task Force to reconsider when public comment is allowed on an item.

Barry Tarino complained that the can never get a response to his messages from the Administrator, who he alleges appears to not exist; that the Task Force needs to address why staff is not available. He also said that the MTA is not providing copies of the packet for the public at their meetings.

Member Pilpel said that he is willing to draft a letter to the MTA board.

Ms. Johnson's comments were inaudible.

Sandip Patel said that the responses from the Administrator are timely.

Myrna Lim said that the Administrator has been very responsive and helpful.

Kimo Crossman said that the Administrator has been missing from the office and that he hasn't received a response in over a week. He said that the Supervisor of Records report is overdue. He urged the swearing in of parties and that DCA Llorente review attorney-client privileged documents. He also said that he is unhappy with Member Sheppard's statements at the hearings.

18. Announcements, questions, and future agenda items from the Task Force

Member Pilpel asked that the COB be invited to speak at the hearing.

Chair Comstock asked the Administrator to agendize the continued matters first on the agenda for the January 8, 2008, special meeting.

Member Pilpel suggested that the Task Force seek to have policy matters that go before the Board of Supervisor that relate to the Sunshine Ordinance first appear before the Task Force.

Member Knee informed members that nominations for the James Madison award are being accepted. For further information go to www.spj.org.norcal.

Chair Comstock asked the Administrator to agendize a discussion regarding when public comment should be taken on an item, for the next Task Force meeting as requested by Member Williams.

Member Wolfe, suggested that the Chair be called last on roll call votes in the event that there is a tie.

Adjournment

The meeting was adjourned at 10:42 PM

This meeting has been audio recorded and is on file in the Office of the Sunshine Ordinance Task Force.



